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No. 25] NEW DELHI, JUNE 17—JUNE 23, 2007, SATURDAY/JYAISTHA 27—ASADHA 2, 1929

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

गृह मंत्रालय

नई दिल्ली, 1 मई, 2007

का.आ. 1781.—लोक परिसर (अनधिकृत कब्जेदारों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, एतद्वारा नीचे दी गई सारणी के कालम (1) में उल्लिखित अधिकारी को, सरकार का राजपत्रित अधिकारी होने के नाते, उक्त अधिनियम के प्रयोजन हेतु सम्पदा अधिकारी नियुक्त करती है जो उक्त सारणी के कालम (2) की संबंधित प्रविष्टि में विनिर्दिष्ट लोक परिसरों के संबंध में अपने क्षेत्राधिकार की स्थानीय सीमाओं के भीतर उक्त अधिनियम के अंतर्गत अथवा उसके द्वारा सम्पदा अधिकारी को प्रदत्त शक्तियों का प्रयोग करेगा तथा सौंपे गए कर्तव्यों का निर्वहन करेगा :—

सारणी

अधिकारी का नाम	लोक परिसरों की श्रेणियां और क्षेत्राधिकार की स्थानीय सीमाएं
(1)	(2)
अपर पुलिस उप महानिरीक्षक, ग्रुप केन्द्र, केन्द्रीय रिजर्व पुलिस बल, अगरतला, त्रिपुरा	त्रिपुरा राज्य के निम्नलिखित स्थानों पर केन्द्रीय रिजर्व पुलिस बल के परिसर अथवा उसके द्वारा या इसकी ओर से पट्टे पर लिए गए परिसर (i) कंपनी मुख्यालय राताचेरा, त्रिपुरा—16.39 एकड़ (ii) कंपनी मुख्यालय बैखोरा, त्रिपुरा—14.26 एकड़ (iii) लिंबुचेरा, त्रिपुरा—7.72 एकड़ (iv) सालबागान अगरतला, त्रिपुरा—36.58 एकड़

[फा. सं. ए-II-2/2007-प्रशा.-1 (टीपीए-ओएल)-गृह मंत्रालय-पीएफ-III]

एच. काम सुआनथंग, अवर सचिव

(3911)

MINISTRY OF HOME AFFAIRS

New Delhi, the 1st May, 2007

S.O. 1781.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the Officer mentioned in column (1) of the Table below, being Gazetted Officer of Government, to be Estate Officer for the purpose of the said Act, who shall exercise the powers conferred, and perform the duties imposed, on Estate Officer by or under the said Act, within the local limits of his jurisdiction, in respect of public premises specified in the corresponding entry in column (2) of the said Table.

TABLE

Designation of the Officer	Categories of public premises and local limits of jurisdiction
(1)	(2)
Additional Deputy Inspector General of Police Group Centre, Central Reserve Police Force, Agartala, Tripura.	Premises belonging to, or taken on lease, by or on behalf of, the Central Reserve Police Force at the following locations in the State of Tripura :— (i) Coy Hqrs. Rattachera, Tripura—16.39 acres (ii) Coy Hqrs. Baikhora, Tripura,—14.26 acres (iii) Limbuchera, Tripura—7.72 acres (iv) Salbagan Agartala, Tripura—36.58 acres

[F. No. A-II-2/2007-Admn.-I (TPA-OL)-MHA-PF-III]

H. KAM SUANTHANG, Under Secy.

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 8 जून, 2007

का.आ. 1782.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए आंध्र प्रदेश राज्य सरकार गृह (एससीए) विभाग की दिनांक 2 जून, 2007 की अधिसूचना सं. जीओ एम्स सं. 115 के द्वारा दी गई सहमति से हुसैनी आलम पुलिस स्टेशन में भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 302, 307, 120-बी और विस्फोटक पदार्थ अधिनियम, 1908 (1908 का अधिनियम सं. 6) की धारा 3 एवं 5 के अंतर्गत दर्ज अपराध सं. 100/2007 (18-05-2007 को हुए मक्का मस्जिद बम विस्फोट) तथा उपर्युक्त अपराध से संबंधित अथवा संसक्त प्रयत्नों, दुष्प्रेरणाओं और षडयंत्रों तथा उसी संव्यवहार के अनुक्रम में किए गए तथा उन्हीं तथ्यों से उद्भूत किन्हीं अन्य अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण आंध्र प्रदेश राज्य पर करती है।

[सं. 228/32/2007-ए.वी.डी.-II]

तेजा सिंह, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 8th June, 2007

S.O. 1782.—In exercise of the powers conferred by Sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Andhra Pradesh, Home (SC. A) Department vide notification No. GO Ms No. 115 dated 2nd June, 2007, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Andhra Pradesh for investigation of Crime No. 100/2007 (Macca Masjid Bomb Explosion occurred on 18-5-2007) under Sections 302, 307, 120-B Indian Penal Code, 1860 (Act No. 45 of 1860) and Section 3 and 5 of Explosive Substances Act, 1908 (Act No. 6 of 1908) registered at Hussaini Alam Police Station and attempts, abetment and conspiracies in relation to or in connection with the said offence and any other offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/32/2007-AVD-II]

TEJA SINGH, Under Secy.

वित्त मंत्रालय
(आर्थिक कार्य विभाग)
(बैंकिंग प्रभाग)

नई दिल्ली, 18 जून, 2007

का.आ. 1783.—राष्ट्रीय आवास बैंक अधिनियम, 1987 (1987 का 53) की धारा 6 की उप-धारा (1) के खण्ड (ड.) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा डॉ. एच. एस. आनन्द, सचिव, आवास तथा गरीबी उन्मूलन मंत्रालय, नई दिल्ली को तत्काल प्रभाव से तथा अगले आदेश तक श्री रंजीत इस्सर के स्थान पर राष्ट्रीय आवास बैंक के निदेशक मण्डल में निदेशक के पद पर नियुक्त करती है।

[फा. सं. 7/15/2000-बीओ-1]

जी.बी. सिंह, उप सचिव

MINISTRY OF FINANCE
(Department of Economic Affairs)
(BANKING DIVISION)

New Delhi, the 18th June, 2007

S.O. 1783.—In exercise of the powers conferred by clause (e) of Sub-section (1) of Section 6 of the National Housing Bank Act, 1987 (53 of 1987), the Central Government hereby appoints Dr. H.S. Anand, Secretary, Ministry of Housing and Poverty Alleviation, New Delhi as a Director of the Board of Directors of National Housing Bank with immediate effect and until further orders in place of Shri Ranjit Issar.

[F.No. 7/15/2000-BO-I]

G.B. SINGH, Dy. Secy.

वाणिज्य और उद्योग मंत्रालय
(वाणिज्य विभाग)

नई दिल्ली, 8 जून, 2007

का.आ. 1784.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 12 के उप-नियम (2) के अनुसरण में, और निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स राईट्स लिमिटेड, माउंट चैम्बर्स, चौथा तल, 758, अन्ना सलाई, चैन्नई-600002 को राजपत्र में, इस अधिसूचना के प्रकाशन की तारीख से तीन वर्ष की और अवधि के लिए प्रभावी वाणिज्य मंत्रालय, भारत सरकार की अधिसूचना सं. का.आ. 3975 और का.आ. 3978 तारीख 20 दिसम्बर, 1965 के साथ उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क समूह-I अर्थात् लौह अयस्क और मैंगनीज अयस्क (मैंगनीज डॉयआक्साइड को छोड़कर), फैरोमैंगनीज जिसके अंतर्गत फैरोमैंगनीज स्लेग और समूह-II अर्थात् बैराइट्स, रेड आक्साइड और फ़ैल्डस्पार के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन चैन्नई में उक्त खनिजों और अयस्कों का निरीक्षण करने के लिए एक अधिकरण के रूप में मान्यता देती है, अर्थात् :-

- (i) कि मैसर्स राईट्स लिमिटेड, चैन्नई खनिज तथा अयस्क समूह-I का निर्यात (निरीक्षण) नियम, 1965 खनिज तथा अयस्क समूह-II का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अंतर्गत निरीक्षण का प्रमाण पत्र देने के लिए उनके द्वारा अपनाई गई पद्धति की जांच करने के लिए, इस संबंध में निर्यात निरीक्षण परिषद् द्वारा नामित अधिकारियों को पर्याप्त सुविधाएं देगी;
- (ii) मैसर्स राईट्स लिमिटेड, चैन्नई इस अधिसूचना के अधीन अपने कृत्यों के अनुपालन में निदेशक (निरीक्षण और क्वालिटी नियंत्रण), निर्यात निरीक्षण परिषद् द्वारा समय-समय पर लिखित में दिए गए निर्देशों से आबद्ध होंगे।

[फा. सं. 5/4/2007-ईआई एंड ईपी]

वी. के. गाबा, उप सचिव

MINISTRY OF COMMERCE AND INDUSTRY
(Department of Commerce)

New Delhi, the 8th June, 2007

S.O. 1784.—In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), and in pursuance of sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rule, 1964, the Central Government hereby recognises M/s. RITES LTD., Mount Chambers, 4th Floor, 758, Anna Salai, Chennai-600002 as an agency for a period of three years with effect from the date of publication of this notification in the Official Gazette, for inspection of Minerals and Ores Group-I, namely, Iron Ore, Mangnese Ore (excluding Manganese Dioxide), Ferromanganese including Ferromanganese slag and Group-II, namely, Barytes, Red Oxide and

Feldspar as specified in the Schedules annexed to the notifications of the Government of India in the Ministry of Commerce numbers S.O. 3975 and S.O. 3978 respectively both dated the 20th December, 1965, prior to the export of the said Minerals and Ores, at Chennai, subject to the following conditions, namely :—

- (i) that M/s. RITES Ltd., Chennai shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting the certificate of inspection under rule 4 of the Export of Minerals and Ores-Group I (Inspection) Rules, 1965 and the export of Minerals and Ores-Group II (Inspection) Rules, 1965;
- (ii) that M/s. RITES Ltd., Chennai in the performance of their function under this notification shall be bound by such directives as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F. No. 5/4/2007-EI & EP]

V. K. GAUBA, Dy. Secy.

अल्पसंख्यक कार्य मंत्रालय

नई दिल्ली, 11 जून, 2007

विषय : मुसलमानों में कौशल और उद्यमीय विकास के लिए एक अंतर-मंत्रालयी समूह का गठन ।

का.आ. 1785.—मुसलमानों में कौशल और उद्यमीय विकास के लिए एक व्यापक कार्यक्रम की योजना बनाने और उसके कार्यान्वयन की निगरानी करने के लिए निम्न प्रकार से एक अंतर-मंत्रालयी समूह के गठन करने का निर्णय किया गया है :—

(i) प्रधानमंत्री के प्रधान सचिव	अध्यक्ष
(ii) सचिव, अल्पसंख्यक कार्य मंत्रालय	सदस्य
(iii) सचिव, वस्त्र मंत्रालय	सदस्य
(iv) सचिव, लघु उद्योग एवं कृषि ग्रामीण आधारित उद्योग विभाग	सदस्य
(v) सचिव, औद्योगिक नीति एवं संवर्द्धन विभाग	सदस्य
(vi) सचिव, खाद्य प्रसंस्करण उद्योग	सदस्य
(vii) सचिव, भारी उद्योग विभाग	सदस्य
(viii) सचिव, स्कूली शिक्षा एवं साक्षरता विभाग	सदस्य
(ix) सचिव, उच्च शिक्षा विभाग	सदस्य
(x) सचिव, श्रम और रोजगार मंत्रालय	सदस्य
(xi) सचिव, वित्त मंत्रालय (बैंकिंग)	सदस्य
(xii) सचिव, स्वास्थ्य एवं परिवार कल्याण मंत्रालय	सदस्य
(xiii) सचिव, आवास एवं शहरी गरीबी उपमशन मंत्रालय	सदस्य
(xiv) संयुक्त सचिव (पीपी), अल्पसंख्यक कार्य मंत्रालय	संयोजक

2. इस अंतर-मंत्रालयी समूह के विचारार्थ विषय इस प्रकार होंगे :—

- (i) मुसलमानों में कौशल और उद्यमीय विकास के लिए एक व्यापक कार्यक्रम तैयार एवं कार्यान्वित करना ।
- (ii) कौशल और उद्यमीय विकास की आवश्यकता के समाधान हेतु एक “कलस्टर दृष्टिकोण” अपनाना, जिससे भारी संख्या में स्वः रोजगार में लगी मुस्लिम जनसंख्या को लाभ हो ।
- (iii) यह सुनिश्चित करना कि इन योजनाओं की पूरकताओं एवं सहक्रिया से अभिप्रेत लाभग्राहियों को शीघ्र और सुस्पष्ट रूप से लाभ प्राप्त हो ।
- (iv) योजना के कार्यान्वयन में पंचायती राज संस्थानों तथा शहरी स्थानीय निकायों को शामिल करने की संभावनाओं पर विचार करना ।
- (v) इस समूह के गठन की तारीख से तीन मास के भीतर इस संबंध में एक योजना प्रस्तुत करना ।
- (vi) योजना के कार्यान्वयन की निगरानी करना ।

3. इस अंतर-मंत्रालयी समूह के अध्यक्ष, यदि आवश्यक हो, किसी विशिष्ट क्षेत्र/समस्या पर अतिरिक्त सदस्यों को सहयोजित कर सकते हैं।
4. अल्पसंख्यक कार्य मंत्रालय, इस समूह को साचिविक सहायता प्रदान करेगा।
5. यह सक्षम प्राधिकारी के अनुमोदन से जारी किया जाता है।

[सं. 14-12/2006-पी. पी.-I]

अमेइजिंग लुईखम, संयुक्त सचिव

MINISTRY OF MINORITY AFFAIRS

New Delhi, the 11th June, 2007

Subject : Constitution of Inter-Ministerial group for skill and entrepreneurship development amongst Muslims.

S. O. 1785.— In order to plan and monitor the implementation of a comprehensive programme for skill and entrepreneurship development amongst Muslims, it has been decided to set up an Inter-Ministerial Group as follows :—

(i) Principal Secretary to the Prime Minister	Chairman
(ii) Secretary, Ministry of Minority Affairs	Member
(iii) Secretary, Ministry of Textiles	Member
(iv) Secretary, Departmental of Small Scale Industries & Agro-Rural Based Industries.	Member
(v) Secretary, Department of Industrial Policy & Promotion	Member
(vi) Secretary, Ministry of Food Processing Industries	Member
(vii) Secretary, Department of Heavy Industries	Member
(viii) Secretary, Department of School Education and Literacy	Member
(ix) Secretary, Department of Higher Education	Member
(x) Secretary, Ministry of Labour & Employment	Member
(xi) Secretary, Ministry of Finance (Banking)	Member
(xii) Secretary, Ministry of Health & Family Welfare.	Member
(xiii) Secretary, Ministry of Housing & Urban Poverty Alleviation.	Member
(xiv) Joint Secretary (PP), Ministry of Minority Affairs	Convener

2. The terms of reference of the inter-ministerial Group shall be as follows :—

- (i) To plan the implementation of comprehensive programme for skill and entrepreneurship development amongst Muslims.
- (ii) To adopt a 'cluster approach' for addressing the need for skill and entrepreneurship development that will benefit the largely self-employed Muslim population.
- (iii) To ensure that the benefits form complementarities and synergy from a host of schemes accrue to the intended beneficiaries quickly and in a palpable fashion.
- (iv) To consider the possibilities of seeking involvement of the Panchayati Raj Institutions and urban local bodies in the implementation of the plan.
- (v) To submit a plan in this regard within three months from the date of constitution of the group.
- (vi) To monitor the implementation of the plan.

3. The Chairman of the Inter-ministerial Group, if necessary, may co-opt additional members on any specific area/problem.

4. The Ministry of Minority Affairs will provide secretarial support to this Group.

5. This issues with the approval of the Competent Authority.

[No. 14-12/2006-PP-I]

AMEISING LUIKHAM, Jt. Secy.

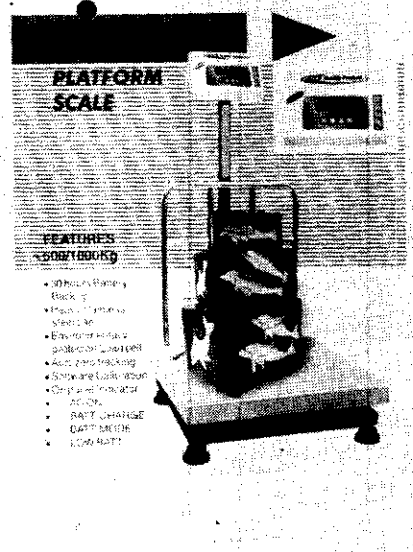
उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

नई दिल्ली, 24 मई, 2007

का. आ. 1786.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स ई वे टेक्नोलॉजी, धोलेश्वर कॉम्प्लेक्स, चंगोदर, सरखेज बावला हाइवे, अहमदाबाद, गुजरात द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले "एस एच पी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "सन" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/07/202 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित तोलन उपकरण है। इसकी अधिकतम क्षमता 1100 कि. ग्रा. है। और न्यूनतम क्षमता 5 कि. ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 100 ग्रा. है। इसमें एक आद्येतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक आधारित आद्येतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंद भी किया जाएगा और मॉडल को विक्री से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम निष्पादन सिद्धांत आदि की शर्तों पर परिवर्तित नहीं किया जाएगा।

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से, जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्रा. से 50 मि. ग्रा. तक के "ई" मान के लिए 100 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 5000 कि. ग्रा. तक की रेंज वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(188)/2004]

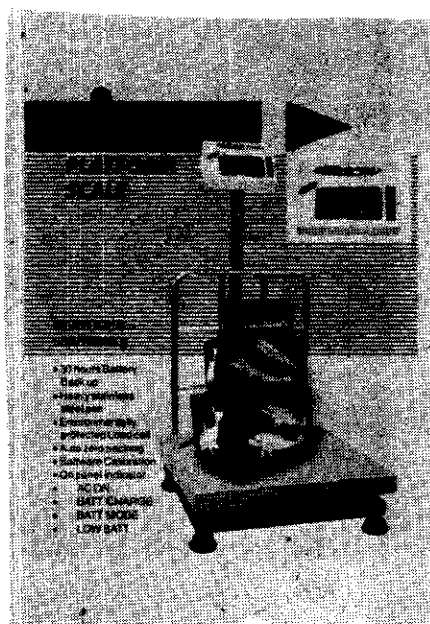
आर. माथुरबुध्म, निदेशक, विधिक माप विज्ञान

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**(Department of Consumer Affairs)**

New Delhi, the 24th May, 2007

S.O. 1786.—Whereas, the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Platform type) with digital indication of "SHP" series of high accuracy (Accuracy class-II) and with brand name "SUN" (herein referred to as the said Model), manufactured by M/s. E Weigh Technologies, Dholeshwar Complex, Changodar, Sarkhej Bavla Highway, Ahmedabad, Gujrat and which is assigned the approval mark IND/09/07/202 ;



The said Model is a strain gauge type load cell based weighing instrument with maximum capacity of 1100 kg. and minimum capacity of 5 kg. The verification scale interval (e) is 100 g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230Volts and 50-Hertz alternate current power supply. In addition to sealing the stamping plate, sealing shall also be done to prevent opening of the machine for fraudulent practices and Model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc. before or after sale.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity above 50 kg. and up to 5000 kg. and with number of verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg. to 50 mg. and with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg. or more and 'e' value of the form 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

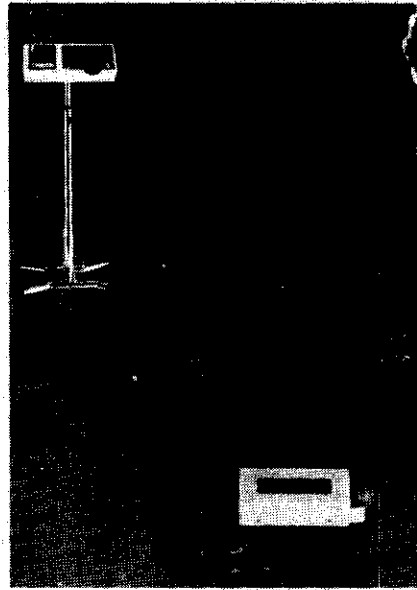
[F. No. WM-21(188)/2004]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 24 मई, 2007

का. आ. 1787.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स ई वे टेक्नोलॉजी, धोलेश्वर कॉम्प्लेक्स, चंगोदर, सरखेज बावला हाइवे, अहमदाबाद, गुजरात द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “एस यू एन पी” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम “सन” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/07/203 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी करती है।



उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित तोलन उपकरण है। इसकी अधिकतम क्षमता 1000 कि. ग्रा. है। और न्यूनतम क्षमता 2 कि. ग्रा. है। सत्यापन मापमान अंतराल (ई) 100 ग्रा. है। इसमें एक आद्येतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टीपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंद भी किया जाएगा और मॉडल को बिजली से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम निष्पादन सिद्धांत आदि की शर्तों पर परिवर्तित नहीं किया जाएगा।

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से, जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. 2 ग्रा. तक के “ई” मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्राम या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 5000 कि. ग्रा. तक की रेंज में हैं और “ई” मान $1 \times 10^*$, $2 \times 10^*$, या $5 \times 10^*$ के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

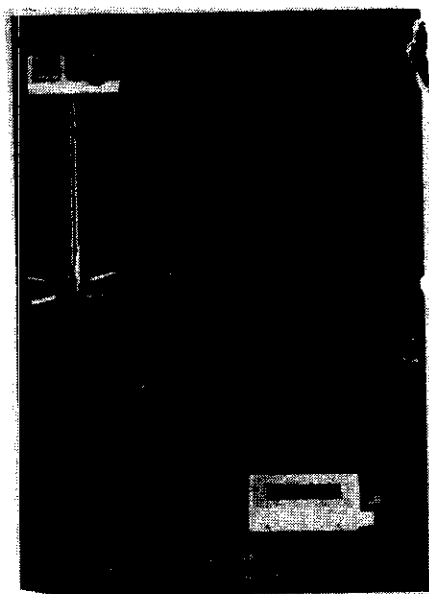
[फा. सं. डब्ल्यू एम-21(188)/2004]

आर. माधुरबूधम, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th May, 2007

S. O. 1787.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Platform type) with digital indication of "SUNP" series of medium accuracy (Accuracy class III) and with brand name "SUN" (herein referred to as the said Model); manufactured by M/s. E Weigh Technologies, Dholeswar Complex, Changodar, Sarkhej Bavla Highway, Ahmedabad, Gujarat and which is assigned the approval mark IND/09/07/203 ;



The said Model is a strain gauge type load cell based weighing instrument with maximum capacity of 1000 kg. and minimum capacity of 2 kg. The verification scale interval (e) is 100 g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230Volts and 50-Hertz alternate current power supply. In addition to sealing the stamping plate sealing shall also be done to prevent opening of the machine for fraudulent practices and Model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc. before or after sale.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity above 50 kg. and up to 5000 kg. and with number of verification scale interval (n) in the range of 100 to 10,000 for 'e' value between 100 mg. to 2 g and with number of verification scale interval (n) in the range of 500 to 10000 for 'e' value of 5g or more and 'e' value of the form 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

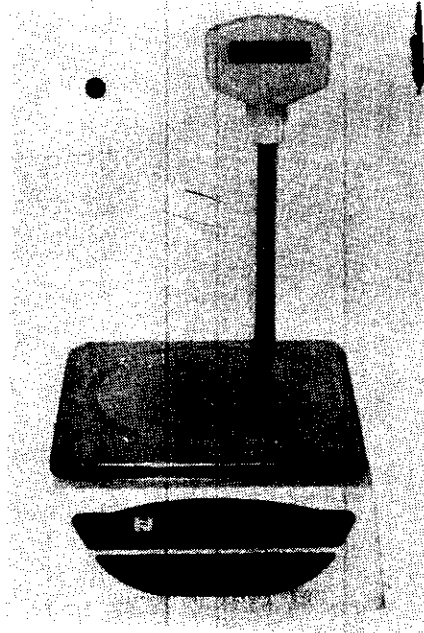
[F. No. WM-21(188)/2004]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 24 मई, 2007

का. आ. 1788.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स ई वे टेक्नोलॉजी, धोलेश्वर कॉम्प्लेक्स, चंगोदर, सरखेज बावला हाइवे, अहमदाबाद, गुजरात द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “एस यू एन टी” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबल टाप प्रकार) के मॉडल का, जिसके ब्रांड का नाम “सन” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/07/204 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी करती है।



उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित तोलन उपकरण है। इसकी अधिकतम क्षमता 30 कि.ग्रा. है। और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टैम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंद भी किया जाएगा और मॉडल को बिक्री से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम निष्पादन सिद्धांत आदि की शर्तों पर परिवर्तित नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्रा. तक के “ई” मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक अधिकतम क्षमता वाले हैं और “ई” मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(188)/2004]

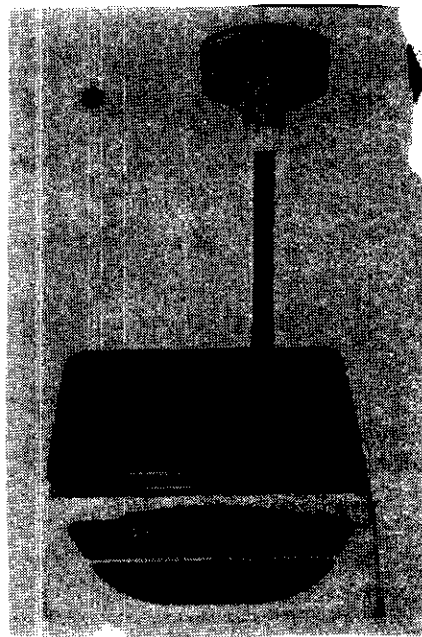
आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th May, 2007

S. O. 1788.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Table Top type) with digital indication of "SUNT" series of medium accuracy (Accuracy class III) and with brand name "SUN" (hereinafter referred to as the said Model), manufactured by M/s. E Weigh Technologies, Dholshwar Complex, Changodar, Sarkhej Bavla Highway, Ahmedabad and which is assigned the approval mark IND/09/07/204;

The said Model is a strain gauge type load cell based weighing instrument with maximum capacity of 30 Kg. and minimum capacity of 100 kg. The verification scale interval (e) is 5 g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. the instrument operates on 230 Volts and 50-Hertz alternate current power supply. In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and Model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc. before or after sale.



Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make and performance of same series with maximum capacity upto 50 kg. and with the number of verification scale interval (n) in the range of 100 to 10,000 for 'e' value between 100 mg. to 2 g. and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and 'e' value of the form 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

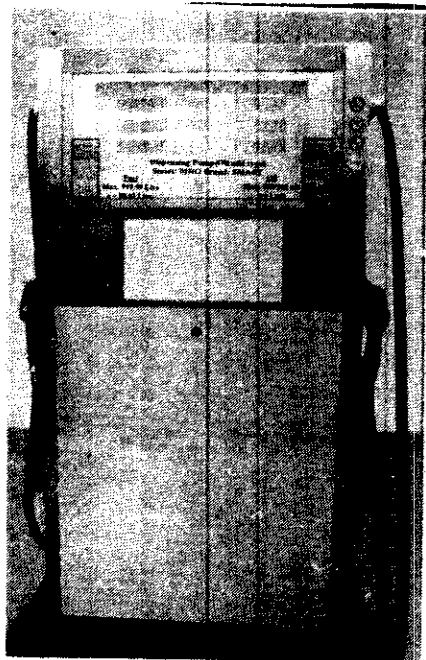
[F. No. WM-21(188)/2004]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 30 मई, 2007

का. आ. 1789.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स स्मार्ट डिस्पेंसर्स प्रा. लि., ई-187, जी. आई.डी.सी., इलैक्ट्रॉनिक्स एस्टेट, सेक्टर-26, गान्धीनगर-382028, गुजरात द्वारा निर्मित “एम एच ओ” शृंखला के अंकक सूचन सहित डिस्पेंसिंग पम्प (आयल मिक्स टाइप) के माडल का, जिसके ब्रांड का नाम “स्मार्ट” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/07/273 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंद भी किया जाएगा और मॉडल को बेचने से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धांत आदि की शर्तों पर परिवर्तन/परिवर्धन नहीं किया जाएगा।

उक्त मॉडल एक आटोमेटिक आयल मिक्स डिस्पेंसिंग पम्प है जिसमें एक, दो और मल्टीपल होस के साथ पिस्टन लगे हैं जो पेट्रोलियम उत्पादों को मापने के लिये लिनियर मोशन को रोटरी मोशन में परिवर्तित करते हैं। लिक्विड क्रिस्टल डिस्प्ले (एल सी डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। इसका प्रवाह दर 40 एल पी एम से 80 एल पी एम है। इसकी अधिकायत आयत प्रदर्श क्षमता 999.99 लीटर है और न्यूनतम प्रमाण 10 मि. लीटर है। आयत और मूल्य के लिये प्रिसेट डिवाइस है। उक्त माडल में 7 डिजिट का नान-रिवर्सिबल इलैक्ट्रॉनिक मैकेनिकल टोटेलाइजर लगा है।

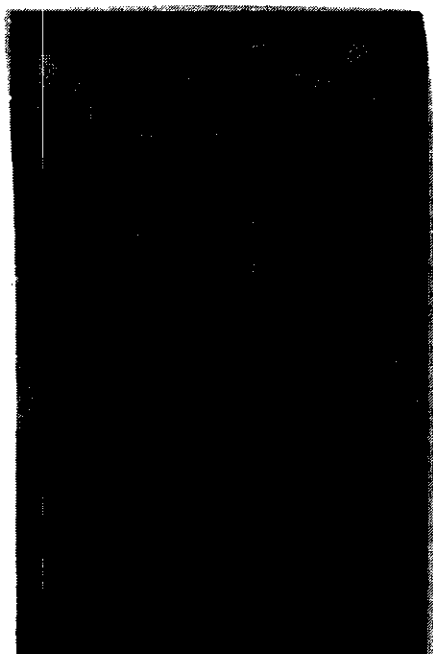
[फा. सं. डब्ल्यू एम-21(207)/2005]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 30th May, 2007

S. O. 1789.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of Dispensing Pump (oil mix type) of digital indication with brand name "SMART" of "MHO" series (hereinafter referred to as the said model), manufactured by M/s. Smart Dispensers Pvt. Ltd., E-187, G.I.D.C., Electronics Estate, Sector-26, Gandhinagar-382028, Gujarat and which is assigned the approval mark IND/09/07/273;



In addition to sealing the stamping plate sealing shall also be done to prevent opening of the machine for fraudulent practices and Model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc. before or after sale.

The said Model is an Automatic Oil Mix Dispensing Pump with single, double and multiple hose consisting pistons converting linear motion in to rotary motion to measure the petroleum products. The indications of the measurement are display on Liquid Crystal Diode (LCD) display. Its flow rate is 40 lmp to 80 lmp. Its maximum value indicating capacity is 999.99 litres and smallest division is 10 ml. It has a preset device for measurement by volume and price. The said model consists of 7 digits non-reversible electro-mechanical totalizer.

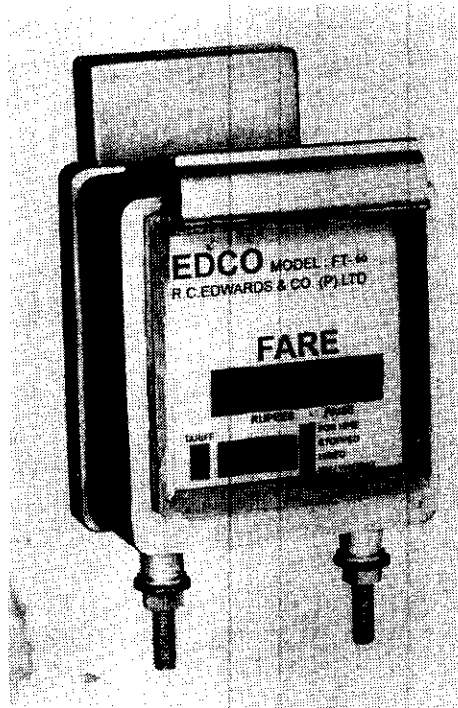
[F. No. WM-21(207)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 1 जून, 2007

का. आ. 1790.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स आर.सी. एडवर्ड्स एण्ड कं. प्रा. लि. 16, अर्थर बंदर रोड, कोलाबा, मुंबई-400 005 द्वारा विनिर्मित “एफ टी-66” श्रृंखला के अंकक सूचन सहित टैक्सी/आटो किराया मीटर के मॉडल का, जिसके ब्रांड का नाम “ई डी सी ओ” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/07/265 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल अंकक सूचन सहित टैक्सी किराया मीटर है जो समय और दूरी नापने का उपकरण है। यह यात्रा के किसी भी क्षण यात्री द्वारा संदेय प्रभार को निरंतर जोड़ता रहता है और उपदर्शित करता रहता है। यात्रा के दौरान कतिपय विनिर्दिष्ट चाल से ऊपर और विनिर्दिष्ट चाल के नीचे चली गई दूरी के किराए को देय करने का फंक्शन है। प्रकाश उत्सर्जक डायोड (एल ई डी) मीटर की रीडिंग उपदर्शित करता है। “के” घटक 1400 पल्स/कि.मी. है।

स्टॉपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंद भी किया जाएगा और मॉडल को बिक्री से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम निष्पादन सिद्धांत आदि की शर्तों पर परिवर्तित नहीं किया जाएगा।

[फा. सं. डब्ल्यू एम-21(112)/2007]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 1st June, 2007

S. O. 1790.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of a Taxi/Auto Fare Meter with digital indication of 'FT-66' series with brand name "EDCO" (herein referred to as the said model), manufactured by M/s. R.C. Edwards & Co. Pvt. Ltd., 16, Aurthur Bunder Road, Colaba, Mumbai-400 005 and which is assigned the approval mark IND/09/07/265;



The said model is a Taxi/Auto Fare Meter with digital indication incorporated with a distance and time measuring device. It totalizes continuously and indicates the fare at any moment of the journey, the charges payable by the passenger. The fare to pay is a function of the distance travelled above a certain specified speed and the time elapsed below a specified speed during the journey. The reading of the meter is indicated by Light Emitting Diode (LED). The 'k' factor of the instrument is 1400 pulses per kilometer.

In addition to sealing the stamping plate sealing shall also be done to prevent opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc. before or after sale.

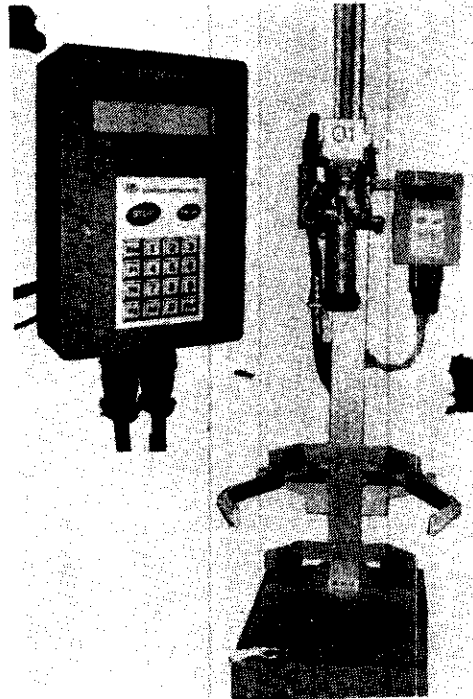
[F. No. WM-21(112)/2007]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 1 जून, 2007

का. आ. 1791.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों के अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इटैलीजेंट माइक्रो सिस्टम प्रा. लि., शेड नं. बी 70/1ए पोरैयुर विलेज, ओसुदी वेली, विल्लैनुर कम्पुन, पाण्डीचेरी-605110 द्वारा विनिर्मित यथार्थता वर्ग एक्स (1) वाले “आईएनएम-पीडब्ल्यू-सीएफआईएलएल” शृंखला के आटोमेटिक ग्रेविमैट्रिक फिलिंग इंस्ट्रूमेंट (एल पी जी कैरौसेल) के मॉडल का, जिसके ब्रांड का नाम “प्रो-वेह्य-ऑटो” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/07/275 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित आटोमेटिक ग्रेविमैट्रिक फिलिंग इंस्ट्रूमेंट (एल पी जी कैरौसेल) है। इसकी अधिकतम क्षमता 100 कि. ग्रा. और सत्यापन मापमान अन्तराल 50 ग्रा. है। कैरौसेल 24 वेइंग सैल वाले है जो सिलेण्डरों में एल पी जी भरने के लिए सरकुलर रोटेटिंग सिस्टम में बनाए गए हैं। इसकी अधिकतम भरने की दर 120 सिलेण्डर प्रति घण्टा प्रति फिलिंग स्टेशन है। लिक्विड क्रिस्टल डायोड (एल सी डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबंद भी किया जाएगा और मॉडल को बिक्री से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम निष्पादन सिद्धांत आदि की शर्तों पर परिवर्तित/परिवर्धित नहीं किया जाएगा।

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से, जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे 1 कि. ग्रा. से 100 कि. ग्रा. तक की रेंज में हैं।

[फा. सं. डब्ल्यू एम-21(57)/2006]

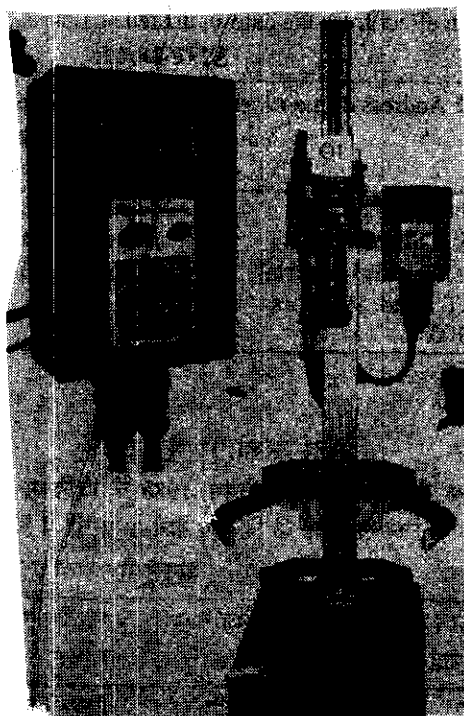
आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 1st June, 2007

S. O. 1791.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of Automatic Gravimetric Filling Instrument (LPG Carousel) of accuracy class-X(1) of "INM-PWA-CFILL" series with brand name "PRO-WEIGH-AUTO" (herein referred to as the said Model), manufactured by M/s. Intelligent Micro System Pvt. Ltd., Shed No. B, 70/1, Poraiyur Village, Osudu Veli, Villianur Commune, Pondicherry-605 110 and which is assigned the approval mark IND/09/07/275;

The said Model (see the figure given below) is a load cell based Automatic Gravimetric Filling Instrument (LPG Carousel) with a maximum capacity of 100 kg with scale division of 50g. There are 24 filling heads with automatic filling heads mounted on the rotating table of the Carousel. It fills LPG in cylinders with a maximum frequency of 120 cylinders per hour per filling station. The Liquid Crystal Display (LCD) indicates the weighing result. The instrument operates on 230 Volts and 50-Hertz alternate current power supply. In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and Model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc. before or after sale.



Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instrument of similar make and performance of same series with capacity in the range 1 kg to 100 kg manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the said approved Model has been manufactured.

[F. No. WM-21(57)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

भारतीय मानक ब्यूरो

नई दिल्ली, 11 जून, 2007

का.आ. 1792.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम (5) के उपविनियम (6) के अनुसार में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिये गये हैं उन लाइसेंसों को उनके आगे दर्शायी गई तारीख से रद्द कर दिया गया है :—

अनुसूची

क्रम संख्या	लाइसेंस संख्या	लाइसेंसधारी का नाम व पता	लाइसेंस के अंतर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द करने की तिथि
1	8178384	शिंकोलाईट प्राईवेट लिमिटेड, गली नं. 8, शम्भुनाथ कैम्पस, फ्रेंड्स औद्योगिक क्षेत्र, जीटी रोड, शाहदरा, दिल्ली-110032	बत्ती उपकरणों की विशिष्ट भाग 5 विशेष अपेक्षायें खंड 1 सामान्य उपयोग के लिए बत्ती उपकरण	23-04-07

[सं. सीएमडी/13:13]

ए. के. तलवार, उपमहानिदेशक (मुहर)

BUREAU OF INDIAN STANDARDS

New Delhi, the 11th June, 2007

S.O. 1792.—In pursuance of sub-regulation (6) of the regulation 5 of the Bureau of Indian Standard (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies that licences particulars of which are given below have been cancelled with effect from the date indicated against each :

SCHEDULE

S. No.	Licence No.	Name & Address of the Licencees	Article/Process with relevant Indian Standards covered by the licence cancelled	Date of Cancellation
1	8178384	Shinkolite Pvt. Ltd., Gali No. 8, Shambhunath Campus, Friends Industrial Area G.T. Road, Shahdara, Delhi-110032.	Luminaries part 5 Particular requirements, sec. 1 general purpose luminaries	23-04-2007

[No. CMD/13 : 13]

A. K. TALWAR, Dy. Director General (Marks)

नई दिल्ली, 11 जून, 2007

का.आ. 1793.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम (4) के उपविनियम (5) के अनुसार में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिये गये हैं वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम संख्या	लाइसेंस संख्या	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा.मा. संख्या	भाग	अनु. वर्ष
1.	8806286	04-04-07	एच.आर. इलैक्ट्रीकल इंडस्ट्रीज, कार्यालय : 4794, डिप्टी गंज, सदर बाजार दिल्ली-110006 फैक्ट्री : प्लॉट नं. 3, खसरा नं. 30/18, लिबासपुर, मेन रोड, समयपुर, औद्योगिक क्षेत्र, दिल्ली-42	बिजली के बल्ब	418		1978

क्रम सं.	लाइसेंस संख्या	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा.मा. संख्या	भाग	अनु. वर्ष	
2.	8808290	11-04-07	मैसर्स एम्पायर फ़ैट्रानिक्स इंडिया प्राइवेट लिमिटेड बी-407, प्रथम एवं द्वितीय तल, मंगोलपुरी औद्योगिक क्षेत्र, फेस 2, नई दिल्ली-110083	नोदक टाइप एसी सवातन पंखे	2312			1967
3.	8810883	20-04-07	मैसर्स एकता इलैक्ट्रीकल 57, जी ब्लॉक, डी एस आई डी सी, मंगोलपुरी दिल्ली-110083	घरेलू और सामान बिजली के साधित्रों की सुरक्षा विशिष्टि भाग 2 विशेष अपेक्षाएँ खंड 3 बिजली की इस्तरी	302	2	3	1992
4.	8810984	19-04-07	मैसर्स श्याम इलैक्ट्रीकल एप्लाइसेंस टी-4/71, मंगोलपुरी औद्योगिक क्षेत्र, फेस 1, नई दिल्ली-110083	बिजली के छत टाइप पंखे और रेगुलेटर	374			1979
5.	8811279	23-04-07	शुभम इंडस्ट्रीज, बीसी 290, मंगोलपुरी औद्योगिक क्षेत्र, फेस 2, नई दिल्ली-110034	विद्युत प्रयोजनों के लिए दाब संवेदी आसंजक (प्लास्टीकृत पोलिविनायल क्लोराइड टेप, गैर-थर्मोस्टेटिक आसंजक)	7809	3	1	1986
6.	8812079	25-04-07	मैसर्स भसीन टनिंग एंड पंचिंग वर्क्स 2892, कूचा नीलकंठ, दरियागंज नई दिल्ली-110002	बिजली की इस्तरी	366			1991
7.	8812180	24-04-07	मैसर्स थर्मोकिंग ए-24, नारायणा औद्योगिक क्षेत्र, फेस-1, नई दिल्ली-110028	स्टेशनरी स्टोरेज टाइप पानी के हीटर	2082			1993

[सं. सीएमडी/13:11]

ए. के. तलवार, उपमहानिदेशक (मुहर)

New Delhi, the 11th June, 2007

S.O. 1793.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulation 1988, of the Bureau of Indian Standards hereby notifies the grant of licences of which are given in the following Schedule :

SCHEDULE

S. No.	Licence No.	Grant Date	Name & Address of the Party	Title of the Standard	IS No.	Part.	Sec.	Year
1	2	3	4	5	6	7	8	9
1.	8806286	04-04-2007	H.R. Electrical Industries, Off. 4794, Dipti Gunj, Sadar Bazar, Delhi-110006. Factory : Plot No. 3, Khasra No. 30/18, Libaspur, Main Road, Samaypur, Industrial Area, New Delhi-110042.	Tungsten filament General Service Electric Lamps	418			1978
2.	8808290	11-04-2007	M/s. Empire Fentranics, (India) Pvt. Ltd., B-407, First & Second Floor, Mangol Puri Industrial Area, Phase 2, New Delhi-110083.	Propeller Type ac ventilating fans	2312			1967
3.	8810883	20-04-2007	M/s. Ekta Electricals 57, G-Block, DSIDC, Mangol Puri, New Delhi-110083.	Electric Iron—Safety Requirments	302	2	3	1992
4.	8810984	19-04-2007	M/s. Shyam Electrical Appliances, T-4/71, Mangol Puri, Industrial Area, Phase-I, New Delhi-110083.	Electric ceiling type fans & Regulator	374			1979
5.	8811279	23-04-2007	Shubham Industries, BC 290, Mangol Puri, Industrial Area, Phase 2, New Delhi-110034.	Pressure sensitive Adhesive insulating Tape	7809	3	1	1986
6.	8812079	25-04-2007	M/s. Bhasin Turning & Punching Works, 2892, Kucha Neelkanth, Darya Ganj, New Delhi-110002.	Pressure sensitive Adhesive insulating Tape	7809	3	1	1991
7.	8812180	24-04-2007	M/s. Thermoking, A-24, Naraina Industrial Area, Phase-1 New Delhi-110028.	Stationary Storage Type Electric Water Heaters	2082			1993

[No. CMD/13 : 11]

A. K. TALWAR, Dy. Director General (Marks)

नई दिल्ली, 14 जून, 2007

का.आ. 1794.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गये हैं :

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा (मानकों), यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 1656:2007 दुग्ध-अनाज आधारित अनुपूरक आहार - विशिष्टि (चौथा पुनरीक्षण)		3 जुलाई, 2007
2.	आई एस 11536:2007 प्रसंस्कृत-अनाज आधारित अनुपूरक आहार - विशिष्टि (दूसरा पुनरीक्षण)		3 जुलाई, 2007
3.	आई एस 14433:2007 शिशु दुग्ध के वैकल्पिक आहार - विशिष्टि (पहला पुनरीक्षण)		3 जुलाई, 2007
4.	आई एस 15757:2007 अनुसरित फार्मूला - अनुपूरक आहार - विशिष्टि		3 जुलाई, 2007

इस भारतीय मानक की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चैन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बटूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : एफएडी/जी-128]

श्रीमती मधुलिका प्रकाश, वैज्ञानिक एफ एवं प्रमुख (खाद्य एवं कृषि)

New Delhi, the 14th June, 2007

S.O. 1794.—In pursuance of clause (b) of sub-rule (1) of Rules (1) of rules 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

S. No.	No. & Year of the Indian Standards Established	No. & year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 1656: 2007 Milk-cereal based complementary foods—Specification (Fourth Revision)		3 July, 2007
2.	IS 11536:2007 Processed-cereal based complementary foods—Specification (Second Revision)		3 July, 2007
3.	IS 14433:2007 Infant milk substitutes —Specification (First Revision)		3 July, 2007
4.	IS 15757:2007 Follow-up formula- Complementary foods—Specification		3 July, 2007

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Jafar Marg, New Delhi-110002 and Regional Office : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.



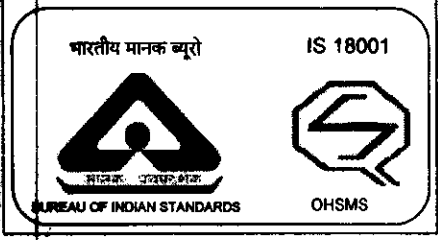

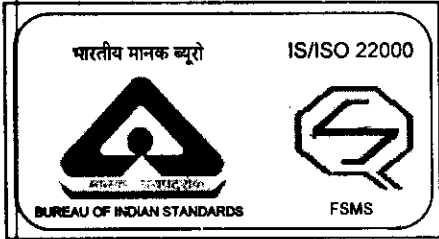
[Ref. FAD/G-128]



Mrs. MADHULIKA PRAKASH, Scientist F & Head (Food & Agri.)

नई दिल्ली, 13 जून, 2007

का.आ. 1795.—अधिसूचना संख्या का.आ. 681(अ) दिनांक 31 जुलाई, 1995 के अधिक्रमण में भारतीय मानक ब्यूरो नियम 1987, के नियम 9 के उपनियम (1) के अनुसरण में भारतीय मानक ब्यूरो नीचे अनुसूची में दिए गए विभिन्न प्रबन्ध पद्धति प्रमाणन सम्बन्धी मानक मुहर के डिजाइन तत्काल प्रभाव से अधिसूचित करता है :—

अनुसूची

क्रम सं.	मानक मुहर का डिजाइन	प्रबन्ध पद्धति की किस्म	भारतीय मानक की संख्या
		गुणता प्रबन्ध पद्धति	आईएस/आईएसओ 9001: 2000
2.		पर्यावरण प्रबन्ध पद्धति	आईएस/आईएसओ 14001
3.		व्यवसायिक स्वास्थ्य एवं सुरक्षा प्रबन्ध पद्धति	आईएस 18001
4.		हार्जर्ड विश्लेषण एवं सघन नियंत्रण पद्धति	आईएस 15000
5.		खाद्य सुरक्षा प्रबन्ध पद्धति	आईएस/आईएसओ 22000

क्रम सं.	मानक मुहर का डिजाइन	प्रबन्ध पद्धति की किस्म	भारतीय मानक की संख्या
6.	 <p>भारतीय मानक ब्यूरो BUREAU OF INDIAN STANDARDS IS 15700 SQMS</p>	सेवा गुणता प्रबंध पद्धति	आईएस 15700
7.	 <p>भारतीय मानक ब्यूरो BUREAU OF INDIAN STANDARDS IS/ISO 27001 ISMS</p>	सूचना सुरक्षा प्रबंध पद्धति	आईएस/आईएसओ 27001

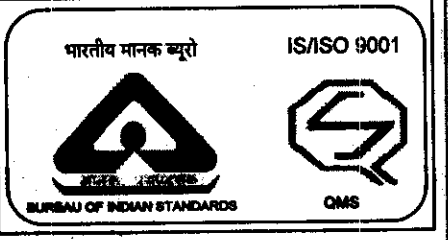

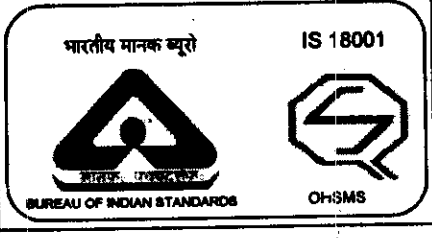
[संदर्भ : सीएमडी-1/13-9]



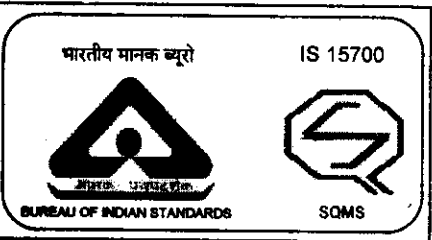
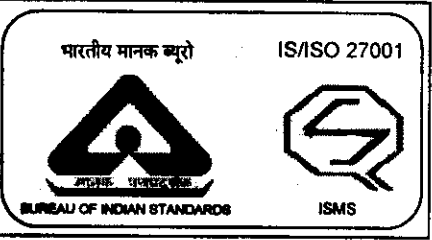
ए. के. तलवार, उप-महानिदेशक (मुहर)

New Delhi, the 13th June, 2007

S.O. 1795.—In supersession of Notification No. S.O. 681(E) dated 31 July, 1995 and in pursuance of sub-rule (1) of Rule 9 of the Bureau of Indian Standards Rules 1987, the Bureau of Indian Standards hereby notifies the Standard Mark(s) for different Management Systems Certifications in accordance with the relevant Indian Standards as given in the schedule below with immediate effect :—

SCHEDULE

Sl. No.	Design of the Standard Mark	Type of Management System	No. of the Indian Standards
1.	 <p>भारतीय मानक ब्यूरो BUREAU OF INDIAN STANDARDS IS/ISO 9001 QMS</p>	Quality Management System	IS/ISO 9001
2.	 <p>भारतीय मानक ब्यूरो BUREAU OF INDIAN STANDARDS IS/ISO 14001 EMS</p>	Environmental Management System	IS/ISO 14001
3.	 <p>भारतीय मानक ब्यूरो BUREAU OF INDIAN STANDARDS IS 18001 OHSMS</p>	Occupational Health & Safety Management System	IS 18001

Sl. No.	Design of the Standard Mark	Type of Management System	No. of the Indian Standards
4.	 <p>भारतीय मानक ब्यूरो IS 15000 BUREAU OF INDIAN STANDARDS HACCP</p>	Hazard Analysis & Critical Control Point	IS 15000
5.	 <p>भारतीय मानक ब्यूरो IS/ISO 22000 BUREAU OF INDIAN STANDARDS FSMS</p>	Food Safety Management System	IS/ISO 22000
6.	 <p>भारतीय मानक ब्यूरो IS 15700 BUREAU OF INDIAN STANDARDS SQMS</p>	Service Quality Management System	IS 15700
7.	 <p>भारतीय मानक ब्यूरो IS/ISO 27001 BUREAU OF INDIAN STANDARDS ISMS</p>	Information Security Management System	IS/ISO 27001

[No. CMD-I/13 : 9]

A. K. TALWAR, Dy. Director General (Marks)

नई दिल्ली, 14 जून, 2007

का.आ. 1796.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के नियम (4) के उप-नियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिये गये हैं वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम सं.	लाइसेंस सं.	चालू तिथि	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक व संबंधित भारतीय मानक
मई 2007				
01.	8815085	01-05-2007	मैसर्स महाराजा केबल्स जी-1/391, फेज-1 भिवाडी औद्योगिक क्षेत्र, भिवाडी जिला-अलवर-301 019 (राजस्थान)	14255 : 1995 एरियल बन्ड केबल्स

क्रम सं.	लाइसेंस सं.	चालू तिथि	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक व संबंधित भारतीय मानक
मई 2007				
02.	8821080	16-05-2007	मैसर्स सलूजा मिनरल्स प्रा.लि. ए-24-ए, औद्योगिक क्षेत्र बहरोड, जिला-अलवर-301 701 (राजस्थान)	8112 : 1989 43 ग्रेड ओपीसी
03.	8815489	01-05-2007	मैसर्स बी.एन. सन्स जी-7, आकेडा औद्योगिक क्षेत्र रोड नं. 18, वि.औ. क्षेत्र जयपुर-302 013 (राजस्थान)	7098 (भाग 1) : 1988 एक्सएलपीई इन्सुलेटेड पीवीसी केबल्स
04.	8815186	01-05-2007	मैसर्स निरकोन पोलीमर्स प्रा.लि. जी-692/693, औद्योगिक क्षेत्र सीतापुरा विस्तार, टैंक रोड जयपुर-302 023 (राजस्थान)	4985 : 2000 यूपीवीसी पाईप्स
05.	8815287	01-05-2007	मैसर्स निरकोन पोलीमर्स प्रा.लि. जी-692/693, औद्योगिक क्षेत्र सीतापुरा विस्तार, टैंक रोड जयपुर-302 023 (राजस्थान)	13592 : 1992 यूपीवीसी पाईप्स फॉर एस डब्ल्यू आर
06.	8813182	26-04-2007	मैसर्स श्री साई ज्वैलर्स आजाद मैदान के पास आबू रोड, जिला-सिरोही 307 026 (राजस्थान)	1417 : 1999 स्वर्णाभूषणों की हॉसलमार्किंग
07.	8814891	01-05-2007	मैसर्स के ई आई इण्डस्ट्रीज लिमिटेड एस-920, फेज-3, रीको औद्योगिक क्षेत्र भिवाडी, जिला-अलवर-301 019 (राजस्थान)	14494 : 1998 इलास्टोमर इन्सुलेटेड फ्लैक्सिबल केबल
08.	8818697	09-05-2007	मैसर्स बजरंग वायर प्रोडक्ट्स (इण्डिया) प्रा. लि., यूनिट-2 प्लॉट नं. 15-28, आकेडा डूंगर (औद्योगिक पार्क) जयपुर-302 013 (राजस्थान)	3975 : 1999 मोइल्ड स्टील वायर्स
09.	8819602	11-05-2007	मैसर्स डिवाईन ओरनामेन्ट्स प्रा. लि. 10, गणपति दर्शन गोविन्द मार्ग, त्रिमूर्ति सर्किल जयपुर-302 004 (राजस्थान)	1417 : 1999 स्वर्णाभूषणों की हॉलमार्किंग

क्रम सं.	लाइसेंस सं.	चालू तिथि	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक व संबंधित भारतीय मानक
मई 2007				
10.	8824894	24-05-2007	मैसर्स वैकटेश इरीगेशन सिस्टम्स प्रा. लि. जी-1-28, रीको एचएमटी औद्योगिक क्षेत्र ब्यावर रोड, अजमेर (राजस्थान)	12786: 1989 लैटरल्स
11.	8825694	24-05-2007	मैसर्स गणपति ज्वैलर्स मेन बाजार, लाला जी चौक हनुमानगढ़ टाउन हनुमानगढ़-335 513 (राजस्थान)	2112: 2003 रजत आभूषणों की हॉलमार्किंग
12.	8825593	24-05-2007	मैसर्स गणपति ज्वैलर्स मेन बाजार, लाला जी चौक हनुमानगढ़ टाउन हनुमानगढ़-335 513 (राजस्थान)	1417: 1999 स्वर्णाभूषणों की हॉलमार्किंग
13.	8825290	24-05-2007	मैसर्स आर सी ज्वैलर्स 3, ओल्ड ग्रेन मार्केट सांगरिया जिला-हनुमानगढ़-335 063 (राजस्थान)	2112: 2003 रजत आभूषणों की हॉलमार्किंग
14.	8825189	24-05-2007	मैसर्स आर सी ज्वैलर्स 3, ओल्ड ग्रेन मार्केट सांगरिया जिला-हनुमानगढ़-335 063 (राजस्थान)	1417: 1999 स्वर्णाभूषणों की हॉलमार्किंग
15.	8825391	24-05-2007	मैसर्स जे.के. मौसूण ज्वैलर्स एण्ड सन्स पीएनबी बैंक के पास, स्टेशन रोड रतनगढ़, जिला-चूरू-331 022 (राजस्थान)	1417: 1999 स्वर्णाभूषणों की हॉलमार्किंग
16.	8825492	24-05-2007	मैसर्स जे.के. मौसूण ज्वैलर्स एण्ड सन्स पीएनबी बैंक के पास, स्टेशन रोड रतनगढ़, जिला-चूरू-331 022 (राजस्थान)	2112: 2003 रजत आभूषणों की हॉलमार्किंग
17.	8825795	25-05-2007	मैसर्स सिनर्जी पेट्रो प्रोडक्ट्स प्रा.लि. बी/481, सैमटेल रोड धिवाडी, जिला-अलवर-301 019 (राजस्थान)	2508: 1984 एलडीपीई फिल्म

[सं. सी एम डी -I/13 : 11]

ए. के. तलवार, उप महानिदेशक (मुहर)

New Delhi, the 14th June, 2007

S.O. 1796.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards, Certification Regulation, 1988, the Bureau of Indian Standards, hereby notifies the grant of licence particulars of which are given in the following schedules.

SCHEDULE

Sl. No.	Licence No. (CM/L-)	Operative Date	Name and Address of the Licensee	Article/Process Covered by the licences and the relevant IS : Designation
1	2	3	4	5
May 2007				
01.	8815085	01-05-2007	Maharaja Cables G-1/391, Phase-1 Bhiwadi Industrial Area Bhiwadi, Distt. Alwar-301 019 Rajasthan	14255 : 1995 Aerial Bunched Cables
02.	8821080	16-05-2007	Saluja Minerals Private Limited A 24 A, Industrial Area Behror, Distt. Alwar-301 701 Rajasthan	8112 : 1989 43 Grade OPC
03.	8815489	01-05-2007	B.N. Sons G-7, Akeda Industrial Area Road No. 18, VKI Area Jaipur-302 013 Rajasthan	7098 (Part 1) : 1988 XLPE Insulated PVC Cables
04.	8815186	01-05-2007	Nircon Polymers Pvt. Ltd. G-692/693, Industrial Area Sitapura Extn. Tonk Road Jaipur-302 023 Rajasthan	4985 : 2000 UPVC Pipes
05.	8815287	01-05-2007	Nircon Polymers Pvt. Ltd. G-692/693, Industrial Area Sitapura Extn. Tonk Road Jaipur-302 023 Rajasthan	13592 : 1992 UPVC Pipes for SWR
06.	8813182	26-04-2007	Shree Sai Jewellers Near Azad Maidan Abu Road, Distt. Sirohi-307 026 Rajasthan	1417 : 1999 Hallmarking of Gold Jewellery
07.	8814891	01-05-2007	KEI Industries Limited SP-920, Phase-III RIICO Industrial Area Bhiwadi, Distt. Alwar-301 019 Rajasthan	14494 : 1998 Elastomer Insulated Flexible Cable
08.	8818697	09-05-2007	Bajrang Wire Products (1) Pvt. Ltd. Unit-II Plot No. 15-28, Akera Dungar (Industrial Park) Jaipur-302 013 Rajasthan	3975 : 1999 Mild Steel Wires
09.	8819602	11-05-2007	Divine Ornaments Pvt. Ltd. 10, Ganpati Darshan Govind Marg, Trimurti Circle Jaipur-302 004 Rajasthan	1417 : 1999 Hallmarking of Gold Jewellery
10.	8824894	24-05-2007	Vanktesh Irrigation Systems Pvt. Ltd. G-1-28, RIICO HMT Industrial Area Beawar Road, Ajmer Rajasthan	12786 : 1989 Irrigation Equipment Polyethylene Pipes for Irrigation Laterals
11.	8825694	24-05-2007	Ganpati Jewellers Main Bazar, Lala Ji Chauk Hanumangarh Town Hanumangarh-335 513 Rajasthan	2112 : 2003 Hallmarking of Silver Jewellery

1	2	3	4	5
12.	8825593	24-05-2007	Ganpati Jewellers Main Bazar, Lala Ji Chaur Hanumangarh Town Hanumangarh-335 513 Rajasthan	1417 : 1999 Hallmarking of Gold Jewellery
13.	8825290	24-05-2007	R C Jewellers 3, Old Grain Market Sangaria Hanumangarh-335 063 Rajasthan	2112 : 2003 Hallmarking of Silver Jewellery
14.	8825189	24-05-2007	R C Jewellers 3, Old Grain Market Sangaria Hanumangarh-335 063 Rajasthan	1417 : 1999 Hallmarking of Gold Jewellery
15.	8825391	24-05-2007	J K Mosun Jewellers & Sons Near PNB Bank, Station Road Ratangarh, Distt. Churu-331 022 Rajasthan	1417 : 1999 Hallmarking of Gold Jewellery
16.	8825492	24-05-2007	J K Mosun Jewellers & Sons Near PNB Bank, Station Road Ratangarh, Distt. Churu-331 022 Rajasthan	2112 : 2003 Hallmarking of Silver Jewellery
17.	8825795	25-05-2007	Synergy Petro Products Pvt. Ltd., B/481, Samtal Road, Bhiwadi, Distt. Alwar-301 019 Rajasthan	2508 : 1984 LDPE Films

[No. CMD-I/13 : 11]

A. K. TALWAR, Dy. Director General (Marks)

नई दिल्ली, 14 जून, 2007

का.आ. 1797.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के नियम 5 के उपनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शायी गई तारीख से रद्द कर दिया गया है :—

अनुसूची

क्रम सं.	लाइसेंस सं.	लाइसेंसधारी का नाम व पता	लाइसेंस के अंतर्गत वस्तु/प्रक्रम से संबंधित भारतीय मानक का शीर्षक व संबंधित भा. मा.	रद्द करने की तिथि
मई 2007				
01.	8475592	मैसर्स श्री श्याम एण्टरप्राइजेज ए-405, बी-1, रोड नं. 9एफ वि.औ. क्षेत्र, जयपुर-302 013 (राजस्थान)	14104 : 1994 डीपवैल हैण्डपम्प कम्पोनेन्ट्स- नाइट्राईल रबर	26-04-2007

[सं. सी एम डी-I/13 : 13]

ए. के. तलवार, उप महानिदेशक (मुहर)

New Delhi, the 14th June, 2007

S.O. 1797.—In pursuance of sub-regulation (6) of regulation 5 of the Bureau of Indian Standards (Certification) Regulation, 1988, the Bureau of Indian Standards, hereby notifies that the licence(s) particulars of which is/are given below has/have been Cancelled with effect from the date indicated.

SCHEDULE

SI. No.	Licence No. (CM/L-)	Name and Address of the Licensee	Article/Process with relevant Indian Standards covered by the licence cancelled	Date of Cancellation
May 2007				
01.	8475592	Shree Shyam Enterprises A-405 B-1, Road No. 9F V.K.I. AREA Jaipur-302 013 Rajasthan	14104: 1994 Deepwell Hand Pump Components-Nitrile Rubber	26-04-2007

[No. CMD-I/13: 13]

A. K. TALWAR, Dy. Director General (Marks)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 21 जून 2007

का.आ. 1798.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 4925 तारीख 19 दिसम्बर, 2006 जो भारत के राजपत्र तारीख 23 दिसम्बर, 2006 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मध्य प्रदेश राज्य में मांगल्या (इंदौर) संस्थापन से हरियाणा राज्य में पियाला तथा दिल्ली राष्ट्रीय राजधानी क्षेत्र में बिजवासन तक पेट्रोलियम उत्पादों के परिवहन के लिये मुंबई-मांगल्या पाइपलाइन विस्तार परियोजना के माध्यम से भारत पेट्रोलियम कॉरपोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 19 फरवरी, 2007 को उपलब्ध करा दी गई थीं;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात्, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त, भारत पेट्रोलियम कारपोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील			
सवाई	जिला :	राज्य :	
माधोपुर :	सवाई माधोपुर	राजस्थान	
क्र. सं.	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हेक्टेयर में
1	2	3	4
1.	कुस्तला	3898	0.0100
		3894	0.1546
		3891	0.3006
		3888	0.1314
		4251	0.1512
		4972	0.0100
		4960	0.1584
		4932	0.0216

1	2	3	4
1.	कुस्तला	4932/5470	0.0108
		4262	0.0828
		4260	0.0846
		4258	0.0234
		3887	0.0360
		4006	0.0090
		3897	0.0539
		3904	0.0628
		3902	0.0161
		4243	0.0562
2.	फूसोदा	131	0.0600
3.	चकेरी	259	0.0366
		751	0.0500
4.	नीमली कला	115	0.1293

[फा. सं. आर-31015/78/2004-ओ आर-II]

ए. गोस्वामी, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 21st June, 2007

S.O. 1798.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 4925, dated the 19th December, 2006, issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act) published in the Gazette of India dated the 23rd December, 2006, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying an extension pipeline for transportation of petroleum products through Mumbai-Manglya Pipeline Extension Project from Manglya (Indore) terminal in the State of Madhya Pradesh to Piyala in the State of Haryana and Bijwasan in the NCT of Delhi by Bharat Petroleum Corporation Limited;

And whereas the copies of the said Gazette notification were made available to the public on the 19th February, 2007.

And whereas the competent authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land, specified in the Schedule, appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of the publication of this declaration, in Bharat Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

Tehsil : Sawai Madhopur District : Sawai Madhopur

State : Rajasthan

S.No.	Name of Village	Survey No.	Area in Hectare
1	2	3	4
1.	Kushtala	3898	0.0100
		3894	0.1546
		3891	0.3006
		3888	0.1314
		4251	0.1512
		4972	0.0100
		4960	0.1584
		4932	0.0216
		4932/5470	0.0108
		4262	0.0828
		4260	0.0846
		4258	0.0234
		3887	0.0360
		4006	0.0090
		3897	0.0539
		3904	0.0628
		3902	0.0161
		4243	0.0562
2.	Phusoda	131	0.0600
3.	Chakeri	259	0.0366
		751	0.0500
4.	Nimli Kalan	115	0.1293

[F. No. R-31015/78/2004-OR-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 21 जून 2007

का.आ. 1799.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 4001 तारीख 9 अक्टूबर, 2006 जो भारत के राजपत्र तारीख 14 अक्टूबर, 2006 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मध्य प्रदेश राज्य में मांगल्या (इंदौर) संस्थापन से हरियाणा राज्य में पियाला तथा दिल्ली राष्ट्रीय राजधानी क्षेत्र में बिजवासन तक पेट्रोलियम उत्पादों के परिवहन के लिये मुंबई-मांगल्या पाइपलाइन विस्तार परियोजना के माध्यम से भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 13 फरवरी, 2007 को उपलब्ध करा दी गई थीं;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात्, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निवेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त, भारत पेट्रोलियम कारपोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : झालरापाटन

जिला : झालावाड़

राज्य : राजस्थान

क्र. सं.	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हेक्टेयर में
1	2	3	4
1.	चंगेरी	68	0.0468
		71	0.1080
		72	0.0576
		62	0.0560

1	2	3	4
		61	0.0060
1.	चंगेरी	60	0.0060
		59	0.0070
		57	0.0050
		34	0.1368
		35	0.1008
		36	0.0500
		39	0.0150
		278	0.1512
		63	0.3000

[फा. सं. आर-31015/77/2004-ओ आर-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 21st June, 2007

S. O. 1799. —Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S. O. 4001, dated 9th October, 2006, issued under sub-Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act) published in the Gazette of India dated the 14th October, 2006, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying an extension pipeline for transportation of petroleum products through Mumbai-Manglya Pipeline Extension Project from Manglya (Indore) terminal in the State of Madhya Pradesh, to Piyala in the State of Haryana and Bijwasan in the NCT of Delhi by Bharat Petroleum Corporation Limited.

And whereas the copies of the said Gazette notification were made available to the public on the 13th February, 2007;

And whereas the competent authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land, specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of the publication of this declaration, in Bharat Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

Tehsil : Jhalrapatan District : Jhalawar State : Rajasthan
S. Name of Village Survey No. Are in hectare
No.

1	2	3	4
1.	Changeri	68	0.0468
		71	0.1080
		72	0.0576
		62	0.0560
		61	0.0060
		60	0.0060
		59	0.0070
		57	0.0050
		34	0.1368
		35	0.1008
		36	0.0500
		39	0.0150
		278	0.1512
		63	0.3000

[F.No.R-31015/77/2004-OR-II]

A. GOSWAMI. Under Secy.

नई दिल्ली, 21 जून, 2007

का.आ. 1800.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 4002 तारीख 9 अक्टूबर, 2006 जो भारत के राजपत्र तारीख 14 अक्टूबर, 2006 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मध्य प्रदेश राज्य में मांगल्या (इंदौर) संस्थापन से हरियाणा राज्य में पियाला तथा दिल्ली राष्ट्रीय राजधानी क्षेत्र में बिजवासन तक पेट्रोलियम उत्पादों के परिवहन के लिये मुंबई-मांगल्या पाइपलाइन विस्तार परियोजना के माध्यम से भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 13 फरवरी, 2007 को उपलब्ध करा दी गई थीं;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात्, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगों से मुक्त, भारत पेट्रोलियम कारपोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : झालरापाटन जिला : झालावाड़ राज्य : राजस्थान

क्र.	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हेक्टेयर में सं.
1	2	3	4
1.	सेमलीपटड़िया	69	0.4980
2.	गोविन्दपुरा	79	0.1780

[फा. सं. आर-31015/77/2004-ओ आर-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 21st June, 2007

S. O. 1800.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S. O. 4002, dated 9th October, 2006, issued under sub-Section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act) published in the Gazette of India dated the 14th October, 2006, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying an extension pipeline for transportation of petroleum products through Mumbai-Manglya Pipeline Extension Project from Manglya (Indore) terminal in the State of Madhya Pradesh, to Piyala in the State of Haryana and Bijwasan in the NCT of Delhi by Bharat Petroleum Corporation Limited.

And whereas the copies of the said Gazette notification were made available to the public on the 13th February, 2007;

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central

Government hereby declares that the right of user in the land, specified in the Schedule; appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of the publication of this declaration, in Bharat Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

Tehsil : Jhalarapatan District : Jhalawar State : Rajasthan

S. No.	Name of Village	Survey No.	Are in hectare
1	2	3	4
1.	Semlipadia	69	0.4980
2.	Govindpura	79	0.1780

[F.No.R-31015/77/2004-OR-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 21 जून, 2007

का.आ. 1801.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 6 की उपधारा (1) (जिसे इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या: का.आ. 4006 तारीख 11 अक्टूबर, 2006 जो भारत के राजपत्र तारीख 14 अक्टूबर, 2006 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मध्य प्रदेश राज्य में मांगल्या (इंदौर) संस्थापन से हरियाणा राज्य में पियाला तथा दिल्ली राष्ट्रीय राजधानी क्षेत्र में बिजवासन तक पेट्रोलियम उत्पादों के परिवहन के लिये मुंबई-मांगल्या पाइपलाइन विस्तार परियोजना के माध्यम से भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 5 फरवरी, 2007 को उपलब्ध करा दी गई थीं;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात्, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त, भारत पेट्रोलियम कारपोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : मथुरा		जिला : मथुरा	राज्य : उत्तर प्रदेश
क्र. सं.	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हेक्टेयर में
1	2	3	4
1.	ओल	136	0.0196
		137	0.1870
		144/2	0.0990
		146	0.0300
		149	0.2152
		237	0.0150
		239	0.0150
2.	खेड़िया	64	0.0138
		91	0.0458
		111/1	0.0080
		150	0.0994
3.	तारसी	98	0.0082
4.	महोली	1262	0.0506
		1348	0.0582
5.	जैंत	289	0.0200
		668	0.0250
		1079	0.1260
		1264	0.2520
		1272	0.0090

[फा. स. आर.-31015/3/2005-ओ आर-II]

ए. गोस्वामी, अवर सचिव

New Delhi, 21st June, 2007

S. O. 1801.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S. O. 4005, dated 11th October, 2006, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act) published in the Gazette of India dated the 14th October, 2006, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying an extension pipeline for transportation of petroleum product through Mumbai-Manglya Pipeline Extension Project from Manglya (Indore) terminal in the State of Madhya Pradesh, to Piyala in the State of Haryana

and Bijwasan in the NCT of Delhi by Bharat Petroleum Corporation Limited.

And whereas the copies of the said Gazette notification were made available to the public on 5th February, 2007 ;

And whereas the competent authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government ;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land, specified in the Schedule; appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of the publication of this declaration, in Bharat Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

Tehsil : Mathura Distt. : Mathura State : Uttar Pradesh

S. No.	Name of Village	Survey No.	Area in hectare
1	2	3	4
1.	AOL	136	0.0196
		137	0.1870
		144/2	0.0990
		146	0.0300
		149	0.2152
		237	0.0150
		239	0.0150
2.	Khedia	64	0.0138
		91	0.0458
		111/1	0.0080
		150	0.0994
3.	Tarsi	98	0.0082
4.	Maholi	1262	0.0506
		1348	0.0582
5.	Jait	289	0.0200
		668	0.0250
		1079	0.1260
		1264	0.2520
		1272	0.0090

[F. No. R-31015/3/2005-OR-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 21 जून, 2007

का.आ. 1802.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 6 की उपधारा (1) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 4005 तारीख 1 अक्टूबर, 2006 जो भारत के राजपत्र तारीख 14 अक्टूबर, 2006 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मध्य प्रदेश राज्य में मांगल्या (इंदौर) संस्थापन से हरियाणा राज्य में पियाला तथा दिल्ली राष्ट्रीय राजधानी क्षेत्र में बिजवासन तक पेट्रोलियम उत्पादकों के परिवहन के लिये मुंबई-मांगल्या पाइपलाइन विस्तार परियोजना के माध्यम से भारत पेट्रोलियम कॉरपोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 5 फरवरी, 2007 को उपलब्ध करा दी गई थीं;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात्, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लिंगमों से मुक्त, भारत पेट्रोलियम कारपोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील: मथुरा जिला : मथुरा राज्य : उत्तर प्रदेश

क्र.	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हेक्टेयर में
1	2	3	4
1.	अरहेरा	319	0.0028
		379	0.2610
		383	0.0900
2.	गणेशरा	39	0.0252
		50	0.01506
3.	मधेरा	146	0.0448
		336	0.1000
		340	0.2440

1	2	3	4	1	2	3	4
4.	मासूम नगर	169	0.2520		भैंसा (जारी)	627	0.1980
		223	0.0100			637	0.1152
						638	0.0586
5.	बाटी	724	0.0150			645	0.2160
		1381	0.0230				
		1387	0.0040	9.	धानाषमसाबाद	23	0.0064
						27	0.0174
6.	धनगौव	116	0.0516			18	0.0080
		132	0.0060			185	0.2282
		149	0.0862				
		154	0.0185	10.	इकदन्ता	3	0.0330
		196	0.0198			9	0.1495
		197	0.0288			11	0.0570
		260	0.0320			19	0.1345
		262	0.1308				
		453	0.0144	11.	बमूरी मुहाल गर्वी	367	0.1118
		454	0.0221			403	0.0090
						405	0.0090
7.	छड़गौव	437	0.3492			434	0.0140
		560	0.1886			440	0.0252
		561	0.2050	12.	बरारी	213	0.0490
		562	0.0828			675	0.0094
		563	0.1080			677	0.0136
		640	0.0315			684	0.0684
		642	0.0028			689	0.0390
		652	0.0152				
8.	भैंसा	4	0.1500	13.	धानातेजा	171	0.0515
		5	0.1230			182	0.0200
		9	0.0150			183	0.0403
		30	0.1296			185	0.0178
		32	0.1170			188	0.0068
		61	0.2456			207	0.0418
		63	0.1774			442	0.0068
		70	0.2250			448	0.0540
		72	0.2328			449	0.0092
		135	0.1980			483	0.0250
		144	0.2132			535	0.0060
		259	0.2185	14.	महीउद्दीनपुर	212	0.0014
		274	0.3906			216	0.0878
		305	0.510			227	0.0864
		486	0.0180			228	0.3636
		507	0.1026				
		510	0.0396	15.	पिलुआ सादिकपुर	29	0.0280
		512	0.0030			65	0.0036
		522	0.1488			70	0.0082
		551	0.0936			76	0.0644
		600	0.0240			122	0.0130
		601	0.0138			509	0.2440
		602	0.0954			528	0.1090
		604	0.0323			574	0.0032
		605	0.0684			586	0.0680
		606	0.0648	16.	अडूकी	68	0.0372
		608	0.1044			70	0.0196

1	2	3	4
16.	अडूकी	131	0.0332
		172	0.0590
		173	0.0410
		175	0.0214
17.	नौगोंख	80	0.2340
		194	0.4860
		205	0.0420
		742	0.0180
18.	सतोड़ा असगरपुर	219	0.0394
		628	0.1360
		1044	0.0580
		1046	0.0720

[फा. सं. आर.-31015/3/2005-ओ आर-11]

ए. गोस्वामी, अवर सचिव

New Delhi, the 21st June, 2007

S.O. 1802.—Whereas, by a notification of the Government of India in the Ministry of Petroleum and Natural Gas, S.O. No. 4006 dated 11th October, 2006, issued under sub-section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act) published in the Gazette of India dated 14th October, 2006, the Central Government declared its intention to acquire the right of user in land, specified in Schedule appended to that notification for the purpose of laying a pipeline for transportation of petroleum product through Mumbai-Manglya Pipeline Extension Project from Manglya (Indore) terminal in the State of Madhya Pradesh, to Piyala in the State of Haryana and Bijwasan in the NCT of Delhi by Bharat Petroleum Corporation Limited;

And, whereas, the copies of the said Gazette notification were made available to the public on 5th February, 2007;

And, whereas, the competent authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And, whereas, the Central Government after considering the said report and on being satisfied that said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land, specified in Schedule, appended to this notification, is hereby acquired for laying pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the

Central Government, vest on the date of the publication of this declaration in Bharat Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

Tehsil : Mathura District : Mathura State : Uttar Pradesh

S.No.	Name of Village	Survey No.	Area in Hectare
1	2	3	4
1.	Arahera	319	0.0028
		379	0.2610
		383	0.0900
2.	Ganeshra	39	0.0252
		50	0.1506
3.	Maghera	146	0.0448
		336	0.1000
		340	0.2440
4.	Masum Nagar	169	0.2520
		223	0.0100
5.	Vaati	724	0.0150
		1381	0.0230
		1387	0.0040
6.	Dhangaon	116	0.0516
		132	0.0060
		149	0.0862
		194	0.0185
		196	0.0198
		197	0.0288
		260	0.0320
		262	0.1308
		453	0.0144
		454	0.0221
7.	Chadgaon	437	0.3492
		560	0.1886
		561	0.2050
		562	0.0828
		563	0.1080
		640	0.0315
		642	0.0028
		652	0.0152
8.	Bhainsa	4	0.1500
		5	0.1230
		9	0.0150
		30	0.1296
		32	0.1170
		61	0.2456
		63	0.1774
		70	0.2250
		72	0.2328
		135	0.1980
		144	0.2132
		259	0.2185

1	2	3	4	1	2	3	4
8.	Bhainsa	274	0.3906	15.	Pilua Sadikpur	29	0.0280
		305	0.0510			65	0.0036
		486	0.0180			70	0.0082
		507	0.1026			76	0.0644
		510	0.0396			122	0.0130
		512	0.0030			509	0.2440
		522	0.1488			528	0.1090
		551	0.0936			574	0.0032
		600	0.0240			586	0.0680
		601	0.0138	16.	Aduki	68	0.0372
		602	0.0954			70	0.0196
		604	0.0323			131	0.0332
		605	0.0684			172	0.0590
		606	0.0648			173	0.0410
		608	0.1044			175	0.0214
		627	0.1980	17.	Naugaon	80	0.2340
		637	0.1152			194	0.4860
		638	0.0586			205	0.0420
		645	0.2160			742	0.0180
9.	Dhana	23	0.0064	18.	Satoha	219	0.0394
	Shamsabad	27	0.0174		Asgarpur	628	0.1360
		18	0.0080			1044	0.0580
		125	0.2282			1046	0.0720
10.	Ekdanta	3	0.0330	[F.No.R.-31015/3/2005-OR-II]			
		9	0.1495	A. GOSWAMI, Under Secy.			
		11	0.0570	नई दिल्ली, 21 जून 2007			
		19	0.1345	का.आ. 1803.-केन्द्रीय सरकार ने पेट्रोलियम और खनिज			
11.	Bamuri Muhal	367	0.1118	पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम,			
	Garvi	403	0.0090	1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम			
		405	0.0090	कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई			
		434	0.0140	भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की			
		440	0.0252	अधिसूचना संख्या का.आ. 397 तारीख 08 फरवरी, 2007 जो भारत			
12.	Barari	213	0.0490	के राजपत्र तारीख 10 फरवरी, 2007 में प्रकाशित की गई थी, द्वारा			
		675	0.0094	उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मध्य प्रदेश			
		677	0.0136	राज्य में मांगल्या (इंदौर) संस्थापन से हरियाणा राज्य में पियाला तथा			
		684	0.0684	दिल्ली राष्ट्रीय राजधानी क्षेत्र में बिजवासन तक पेट्रोलियम उत्पादों के			
		689	0.0390	परिवहन के लिये मुंबई-मांगल्या पाइपलाइन विस्तार परियोजना के			
13.	Dhana Teja	171	0.0515	माध्यम से भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा एक विस्तार			
		182	0.0200	पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का			
		183	0.0403	अर्जन के अपने आशय की घोषणा की थी;			
		185	0.0178	और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख			
		188	0.0068	5 अप्रैल, 2007 को उपलब्ध करा दी गई थीं;			
		207	0.0418	और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की			
		442	0.0068	उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;			
		448	0.0540	और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के			
		449	0.0092	पश्चात्, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन			
		483	0.0250	बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन			
		535	0.0060	करने का विनिश्चय किया है;			
14.	Muhiuddinpur	212	0.0014				
		216	0.0878				
		227	0.0864				
		228	0.3636				

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगनों से मुक्त, भारत पेट्रोलियम कारपोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील: तराना	जिला : उज्जैन	राज्य : मध्य प्रदेश	
क्र. सं.	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हेक्टेयर में
1	2	3	4
1.	बिंजल	50/332 (शासकीय)	0.0540
2.	भडसिम्बा	379 (शासकीय रास्ता) 400	0.0324 0.0720
3.	नौगावा	51	0.2016
4.	बिसनखेडा	260 281 280	0.0216 0.1440 0.1440
5.	नांदेड	1078 985	0.0720 0.0720
6.	कडाई	792	0.0540
7.	चिकली	104 571	0.0720 0.0630
8.	खोकरीया	259	0.0540

[फा. सं. आर.-31015/67/2004-ओ आर-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 21st June, 2007

S.O. 1803.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas, No. S.O. 397 dated the 8th February, 2007, issued under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act) published in the Gazette of India dated the 10th February, 2007, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying an extension pipeline for transportation of petroleum product through Mumbai-Mangliya Pipeline Extension Project from Mangliya (Indore) terminal in the

State of Madhya Pradesh, to Piyala in the State of Haryana and Bijwasan in the NCT of Delhi by Bharat Petroleum Corporation Limited;

And whereas the copies of the said Gazette notification were made available to the public on the 5th April, 2007;

And whereas the competent authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land, specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of the Section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of the publication of this declaration in Bharat Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

Tehsil : Tarana	District : Ujjain	State : Madhya Pradesh	
S.No.	Name of Village	Survey No.	Area in Hectare
1	2	3	4
1.	Binjal	50/332 (Govt. Land)	0.0540
2.	Bhadsimba	379 (Govt. Rasta) 400	0.0324 0.0720
3.	Naugawa	51	0.2016
4.	Bisankheda	260 281 280	0.0216 0.1440 0.1440
5.	Nanded	1078 985	0.0720 0.0720
6.	Kadai	792	0.0540
7.	Chikli	104 571	0.0720 0.0630
8.	Khokariya	259	0.0540

[F. No.R.-31015/67/2004-OR-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 21 जून 2007

का.आ. 1804.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 14 तारीख 3 जनवरी, 2007 जो भारत के राजपत्र तारीख 6 जनवरी, 2007 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मध्य प्रदेश राज्य में मांगल्या (इंदौर) संस्थापन से हरियाणा राज्य में पियाला तथा दिल्ली राष्ट्रीय राजधानी क्षेत्र में बिजवासन तक पेट्रोलियम उत्पादकों के परिवहन के लिये मुंबई-मांगल्या पाइपलाइन विस्तार परियोजना के माध्यम से भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 1 मार्च, 2007 को उपलब्ध करा दी गई थीं;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात्, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त, भारत पेट्रोलियम कारपोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील:	जिला :	राज्य :	
मलारना डूंगर	सवाई माधोपुर	राजस्थान	
क्र. सं.	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हेक्टेयर में
1	2	3	4
1.	पीलवा नदी	653	0.0550
		651/1,2	0.0170
		478	0.0450
		587	0.0060

1	2	3	4
		655,655/1	0.0600
		650	0.2160
		398	0.0600
		623	0.0800
		576	0.0316
		477	0.1900
		485	0.0800

[फा. सं. आर.-31015/88/2004-ओ आर-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 21st June, 2007

S.O. 1804.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas, No. S.O. 14 dated the 3rd January, 2007, issued under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act) published in the Gazette of India dated the 6th January, 2007, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying an extension pipeline for transportation of petroleum products through Mumbai-Manglya Pipeline Extension Project from Manglya (Indore) terminal in the State of Madhya Pradesh, to Piyala in the State of Haryana and Bijwasan in the NCT of Delhi by Bharat Petroleum Corporation Limited;

And whereas the copies of the said Gazette notification were made available to the public on the 1st March, 2007;

And whereas the competent authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government after considering the said report and on being satisfied that said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land, specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of the publication of this declaration in Bharat Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

Tehsil : Malarna Dungar		District : Sawai Madhopur	State : Rajasthan
S. No.	Name of Village	Survey No.	Area in Hectare
1	2	3	4
1.	Pilwa Nadi	653	0.0550
		651/1,2	0.0170
		478	0.0450
		587	0.0060
		655,655/1	0.0600
		650	0.2160
		398	0.0600
		623	0.0800
		576	0.0316
		477	0.1900
		485	0.0800

[F.No. R-31015/88/2004-OR-II]

A. GOSWAMI, Under Secy.

शहरी विकास मंत्रालय

नई दिल्ली, 22 जून, 2007

का.आ. 1805.—मुद्रण निदेशालय, नई दिल्ली में मुद्रण निदेशक के केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण एवं अपील) नियमावली, 1965 (जिसे इसमें इसके पश्चात् उक्त नियम कहा गया है) के अधीन मुद्रण निदेशालय (जिसे इसमें इसके पश्चात् निदेशालय कहा गया है) के नियंत्रणाधीन मुद्रण निदेशालय, भारत सरकार के मुद्रणालयों तथा शाखाओं में कार्यरत सामान्य केन्द्रीय सेवा समूह (ख) तथा समूह (ग) कर्मचारियों के कतिपय प्रवर्ग के संबंध में अनुशासनिक प्राधिकारी और अपील प्राधिकारी की शक्तियां प्रदत्त की गई हैं;

और मुद्रण निदेशक का पद, पदधारी को अधिवर्षिता पर सेवा निवृत्ति के परिणामस्वरूप 1 अगस्त, 2003 की रिक्त हुआ है और कुछ और अधिक समय के लिए रिक्त रहने की संभावना है;

और उक्त मुद्रण निदेशक द्वारा अब तक निर्वाह किए गए अनुशासनिक तथा अपील संबंधी कृत्यों के लिए एक व्यवस्था किए जाने की अत्यंत आवश्यकता थी तथा श्री पी. के. प्रधान, संयुक्त सचिव, शहरी विकास मंत्रालय को दिनांक 22-1-04 की अधिसूचना सं. सी-31011/2/2003-ए बी/मु द्वारा उक्त नियमों के नियम 11 के खण्ड (v) से (ix) में विनिर्दिष्ट शास्तियों में से किसी के अधिरोपित करने तथा पूर्वोक्त समूह (ख) तथा समूह (ग) पदों के संबंध में उक्त नियमों के अधीन मुद्रण निदेशक को प्रदत्त सभी अपीलीय शक्तियों का प्रयोग करने के लिए अनुशासनिक प्राधिकारी नियुक्त किया गया;

और श्री पी. के. प्रधान, संयुक्त सचिव को उनकी पदावधि पूर्ण होने के परिणामस्वरूप शहरी विकास मंत्रालय से दिनांक 27-4-06 के कार्यालय आदेश सं. ए-22012/2/2005-प्रशा.-1 द्वारा कार्यभार से मुक्त किया गया;

तथा, अतएव, निदेशालय में उक्त मुद्रण निदेशक द्वारा अब तक प्रयोग किए जा रहे पूर्वोक्त अनुशासनिक तथा अपीलीय कृत्यों के निर्विघ्न निष्पादन को सुनिश्चित करने के लिए एक व्यवस्था करने की पुनः अत्यंत आवश्यकता है;

अतः, अब, राष्ट्रपति उक्त नियमों के नियम 12 के उप-नियम (2) के खण्ड (ख) के अनुसरण में श्री एस. के. सिंह, संयुक्त

सचिव (आवास), आवास एवं शहरी गरीबी उपशमन मंत्रालय को उक्त नियमों के नियम 11 के खण्ड (v) से (ix) में विनिर्दिष्ट शास्तियों में से किसी को अधिरोपित करने तथा पूर्वोक्त समूह (ख) एवं समूह (ग) पदों/कर्मचारियों के संबंध में उक्त नियमों के अधीन मुद्रण निदेशक को प्रदत्त अपीलीय प्राधिकारी की शक्तियों का प्रयोग करने के लिए अनुशासनिक प्राधिकारी नियुक्त करते हैं।

[फा. सं. सी-31011/2/2003-एबी]

जी. गणेशन, अवर सचिव

MINISTRY OF URBAN DEVELOPMENT

New Delhi, the 22nd June, 2007

S.O. 1805.—Whereas the Director of Printing in the Directorate of Printing, New Delhi has been conferred under the Central Civil Services (Classification, Control and Appeal) Rules, 1965, (hereinafter referred to as the said Rules) with the powers of Disciplinary Authority and Appellate Authority in respect of certain categories of General Central Services Group 'B' and Group 'C' employees working in the Directorate of Printing, the Government of India Presses and the Branches under the control of Directorate of Printing (hereinafter referred to as the Directorate);

And whereas, the post of Director of Printing has fallen vacant on 1st August, 2003 consequent on the retirement on superannuation of the then incumbent and is likely to continue to be so vacant for some time more;

And whereas, there was urgent need to make an arrangement to provide for carrying out the disciplinary and appellate functions, hitherto performed by the said Director of Printing and Shri P. K. Pradhan, Joint Secretary in the Ministry of Urban Development was appointed as Disciplinary Authority vide notification No. C-31011/2/2003-AV/Ptg. dated 22-1-04 to impose any of the penalties specified in clauses (v) to (ix) of rule 11 of the said Rules as well as to exercise all the appellate powers conferred on the Director of Printing under the said Rules in respect of the aforesaid Group 'B' and Group 'C' posts;

And whereas, Shri P.K. Pradhan, Joint Secretary has since been relieved of his duties in the Ministry of Urban Development consequent on completion of his tenure vide Office Order No. A-22012/2/2005-Admn.-I dated 27-4-06.

And, therefore, there is again an urgent need to make an arrangement for ensuring the smooth performance of the aforesaid Disciplinary and Appellate function hitherto exercised by the said Director of Printing in the Directorate.

Now, therefore, in pursuance of clause (b) of sub-rule (2) of rule 12 of said Rules, the President hereby appoints Shri S. K. Singh, Joint Secretary (Housing) in the Ministry of Housing and Urban Poverty Alleviation as Disciplinary Authority to impose any of the penalties specified in clauses (v) to (ix) of rule 11 of the said Rules as well as to exercise the powers of the Appellate Authority conferred on the Director of Printing under the said Rules in respect of the aforesaid Group 'B' and Group 'C' posts/employees.

[F. No. C-31011/2/2003-AV]

G. GANESAN, Under Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 24 मई, 2007

का.आ.1806.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैंगनीज ओर (इंडिया) लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या सी जी आई टी/एनजीपी/59/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-2007 को प्राप्त हुआ था।

[सं. एल-27012/4/90-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 24th May, 2007

S.O.1806.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/NGP/59/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Manganese Ore (India) Ltd., and their workman, which was received by the Central Government on 24-5-2007.

[No. L-27012/4/90-IR (M)]

N.S. BORA, Desk Officer

ANNEXURE

**BEFORE SHRI A.N. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/59/2003

Date: 8-5-2007

Patitioner/ : Shri Mandelal Dharma, Through the
Party No. 1 Secretary General, Rashtriya Manganese
Mazdoor Sangh, Banshi Villa Compound,
Katol Road, Nagpur.

Versus

Respondent/ : CM-cum-MD, Manganese Ore (India) Ltd.,
Party No. 2 3, Mount Road Extension, Sadar, Nagpur.

AWARD

Datet : 8th May 2007

1. The Central Government after satisfying the existence of disputes between The Secretary General, Rashtriya Manganese Mazdoor Sangh, Banshi Villa Compound, Katol Road, Nagpur Party No.1 and CM-cum-MD, Manganese Ore [India] Ltd., 3, Mount Road Extension, Sadar, Nagpur Party No. 2 referred the same for adjudication to this Tribunal vide its Letter No. L-27012/4/90-IR(Mine) Dt. 19-3-1991 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) with the following schedule.

“Whether the action of Management of Manganese Ore [India] Ltd., Nagpur in dismissing Shri Mandelal Dharma, Security Guard of Chikla Mine from service w.e.f. 11/06/1988 is justified? If not, to what relief is the workman entitled?”

2. The dispute came up for hearing before the Tribunal on 14-12-2006 on which both the parties were absent. However, the counsel for the respondent was present and for the petitioner nobody had appeared nor he himself was present. It seems that initially the dispute was referred to CGIT, Jabalpur and consequent upon the establishment on this Tribunal, Nagpur that has been transferred to it. The perusal of record indicates that after the transfer to this court the petitioner did not attend it. A notice was issued to him still he did not attend and right from 23-8-2005 there is no representation on behalf of the petitioner in the present dispute. He himself also did not attend it. It was pending for filing the affidavit of the workman i.e. for adducing the evidence to prove the perversity of findings, but as indicated above the petitioner has not taken any steps of filing the evidence/affidavit. Hence, it was again fixed for arguments on the point of perversity and quantum of punishment.

3. The record also indicates that at Jabalpur before CGIT my learned predecessor had given finding about the validity of enquiry on 13-6-1996. He has concluded that the enquiry was proper, legal and the case was fixed for adducing evidence and argument on the point of perversity of findings of the enquiry officer and about the content of punishment. But no further steps are taken since then.

4. On 14-12-2006 both the parties were expected to submit their arguments on the point of perversity of the finding and on the quantum of the punishment. The same stage on which the case was fixed before CGIT, Jabalpur in the year 1996. Since the petitioner was not taking any interest it was seized for Award.

5. I have gone through the record it shows that the petitioner was watchman in MOIL. At the time of checking it was found that the locks of the room where the explosives were kept and were under the control of the petitioner were stolen. The lock was broken and the explosive worth more than Rs. 11,000 were stolen. It was a sheer negligence on the part of the petitioner and the management after conducting enquiry has issued the order of dismissal. The findings of the enquiry officer are based on the evidence. The evidence was recorded in a questions and answers form at some time. The findings of the enquiry officer are reasoned. He has considered all the evidence in detail and there is nothing to show a perversity in it. Hence I hold that the findings are not perverse.

6. Similarly the allegations were of a serious nature regarding the theft of explosive having a considerable price at that time. The management considering the gravity of offence as well as giving opportunity to the petitioner

passed an order of dismissal. The quantum of punishment is also proper and cannot be said was disproportionate to the misconduct. Hence, I do not find it necessary to interfere in the order of the management consequently the order of dismissal from the service is proper and correct. In the result I answer the dispute in negative. Its stands as dismissed.

Hence this Award.

Dated 8-5-2007 A. N. YADAV, Presiding Officer
नई दिल्ली, 24 मई, 2007

का.आ.1807.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जनरल इंडस्ट्रीज कार्पोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय II, चंडीगढ़ के पंचाट (संदर्भ संख्या आई. डी. सं. 621/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-2007 को प्राप्त हुआ था।

[सं. एल-29012/17/2001-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 24th May, 2007

S.O.1807.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. I. D. No. 621/2005) of Chandigarh nowt he Central Government Industrial Tribunal-cum-Labour Court, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Gen. Ind. Corpn. Ltd., and their workman, which was received by the Central Government on 24-5-2007.

[No.L-29012/17/2001-IR (M)]

N.S. BORA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

PRESIDING OFFICER SHRI KULDIP SINGH

Case No. I. D. No. 621/2005

Registered on 24-8-2005

Date of Decision 16-3-2007

Roop Lal S/o Shri Sukh Ram Village Dehlag,
PO Bhater Nichla, District Bilaspur ...Petitioner

Versus

The Managing Director,
General Industries Corporation Ltd.
Shimla, Himachal Pradesh ...Respondent

APPEARANCE

For the Workman : Shri J. C. Bhardwaj, AR

For the Management : Shri V. K Gupta, AR

AWARD

The Government of India vide their No. L-29012/17/2001-IR(M) dated 2nd June, 2001, the Ministry of Labour, Government of India referred the following matter for the adjudication of this Tribunal and the same was received on 27th June, 2001. The notice of the reference was given to the parties who appeared through their representatives. The workman filed his Claim Petition and the Management opposed the claim through their Written Statement. The workman filed rejoinder as well as the affidavit supporting his claim. The Management has filed the affidavit of Shri M.S Pathania their General Manager besides that of R.S. Bhardwaj, who, however was not examined as a witness. The Management also placed on record the photo copy of the inquiry proceedings. The workman had the opportunity to cross-examine the witness of the Management and the Management cross-examined the workman to their satisfaction.

Stated in brief the claim of the workman, as is made out by him in his statement of claim filed on 9th August, 2000, is that he had joined the services with the Management as semi-skilled worker in compliance to the order dated 17th September, 1991. He remained in their service till 31st March, 1998 when his services were terminated in violation of provisions of law and principles of natural justice for the reason of his Trade Union Activities. The Domestic Inquiry held against him was farce and the report made was biased and partial. Even otherwise nothing could be proved against the workman beyond any doubt. That the punishment awarded to the workman was harsh and disproportionate to the mis-conduct alleged against him. Even otherwise the workman was not provided with fair opportunity to defend himself. The order of dismissal, therefore, was bad in law is required to be quashed.

According to the workman, the Management failed to produce any conclusive proof to show that the vehicles were owned by him. They could also not prove the factum of instigation of the workers to go on strike. The Management failed in its duty to produce as witnesses the private parties which according to them were benefited by the act of the workman. The charge of failure of the workman to attend the Shimla Office was also bad since before issuing directions to the workman, to go to Shimla, it was required of the Management to have fixed the wages of the workman and provided him the allowances. The inquiry was also bad for the reason that both the Inquiry Officer and the Presenting Officer were the employees of the Management, thus under their influence. Moreover, they failed to prescribe procedure, to be followed, in the inquiry. They further failed in their duty to provide the copies of the documents, sought to be produced, against the workman besides did not provide the list of witnesses. The Inquiry Officer based the report only on the testimony of the witness who was the Manager of the Management. The Management also failed in their duty to provide

opportunity to the workman for properly defending his case. The Management further failed in not recording the minutes of the personal hearing. They rejected the review petition without giving any findings. They also did not consider the past record of the workman which was blameless. The workman in the end has prayed for quashing the finding of the domestic inquiry and the punishment awarded to him. He has claimed that right from the date of his termination of his services he has remained without work. He has also prayed for the exercise of power under Section-II-A of the Act.

The Management has opposed the claim of the workman stating that the workman had indulge in gross misconduct during the course of his employment as he remained unauthorisedly absent from duty. He neglected his duty and ran his own business. He incited the workers of the Management by provoking them to indulge in illegal activities and thus caused financial loss to the Management. For those misconducts he was placed under suspension and was charge sheeted. As a result of his incitement the workers went on strike causing huge loss to the Management. A domestic inquiry was conducted against him in a fair and proper manner by observing the principles of natural justice. In the inquiry the workman was found guilty of having committed the misconduct, therefore, he was dismissed from service and the action taken against him was legal and justified. Denying that the allegation of the workman that he did not own two vehicles, in his name, it is stated by the Management that the workman himself admitted during the inquiry that he owns the vehicles. The Inquiry Officer was fair in conducting the inquiry whereas the workman did not attend the inquiry proceedings despite notices. He was represented by Shri K.C Bhardwaj, his representative, who had taken full care of him, during the inquiry. Claiming that the finding of the inquiry was based on evidence, it is stated by them that though the venue of the inquiry was fixed at Shimla, the Head Quarter of the workman, but the workman remained at his native place and did not report at the Head Quarter at Shimla. Regarding the allegation of denial of fair opportunity to him it is stated by the Management that the workman had full opportunity and that the review petition had been rejected since it did not have any merit. Otherwise also the record of the workman was blemished. They further stated that the punishment awarded to the workman was proportionate to the gravity of misconduct. The Management in the end has prayed for permission to lead the evidence in case the Tribunal comes to the conclusion that the domestic inquiry was not based on the facts. They have prayed for dismissal of the Claim Petition.

The workman filed a long rejoinder, without adding anything substantial to the claim made by him in the Claim Statement. He denied that he had ever admitted being the owner of any vehicle or that he had running any business and was neglecting his duty. The Management also never

served upon him the notice for unauthorized absence from duties. He denied that a fair and proper inquiry was held against him. He claimed that the Inquiry Officer was biased against him as he was posted in that Branch. Moreover, he proved the charges without any evidence rather against the statement of the witnesses. Neither the procedure for inquiry was settled nor the workman was provided with the documents. It is also claimed by the workman that the Management was biased against him, therefore, they had fixed his Head Quarter at Shimla, whereas the inquiry was ordered to be held at Delog district, Bilaspur at a distance of 200 kms. The Management also did not give him the subsistence allowance, a mandatory requirement. Thus the finding of the inquiry was bad. Denying that he had a blemished service record he claimed that he had never been issued a warning regarding any misconduct earlier, rather his work was appreciated a number of times and he was charge sheeted only for having taken part in legitimate Trade Union Activities. The punishment was also disproportionate and harsh to the misconduct alleged. He prayed for allowing him to lead the evidence, afresh so as to prove his innocence.

The workman appeared as a witness and proved his affidavit W -1. In cross examination he admitted that he was charge sheeted, the Management had produced the witnesses and so was done by him. He had engaged Shri J.C. Bhardwaj, as his representative in the inquiry; that he had been provided with the copy of the statements. He was placed under suspension and by the same order his Head Quarter was shifted to Shimla. However, he was not relieved from Bilaspur for Shimla. He admitted that he had received the copies of the documents, such as, Memorandum dated 3rd December, 1996, letter dated 30th May, 1996, agreement dated 7th June, 1996, another letter dated 12th October, 1996, the list of witnesses placed on record and all the documents attached with the affidavit of Shri R.S. Bhardwaj. He also admitted to have filed the reply a copy of which is on record. He admitted to have received the copies of the Annexure A, B, C besides that of letter dated 5th November, 1996, documents no.78 to 117. He claimed that he had pointed out to the Management that he has not received the copies of some documents. He, however, did not show what were these documents, the copies of which he had not received.

The Management produced Shri M.S. Pathania as their witness besides Shri Ram Saroop Bhardwaj. By his statement Mr. Pathania proved his affidavit, Exhibit M-1 and the documents Exhibits M-2 to M-14. In cross examination he admitted that at the time the workman was dismissed from the service a reference was pending in this Court and no approval, to terminate the services of the workman, was taken by the Management from this Court. He denied the knowledge that the workman was issued a month's notice before the termination of his services. He admitted that the place of inquiry was Shimla, because of

Headquarter and that the workman was not paid the subsistence allowance during the period of his suspension. He claimed that two certificates showing him as owner of the vehicles are on record. He denied that the workman's union had made a complaint of corruption against him but admitted that the workman was a General Secretary of the Union. He denied that the workman was victimized for his Trade Union activities.

The other witness Ram Saroop also proved his affidavit M-15 and the documents M-16 to M-22. He admitted that he was subordinate to Managing Director but denied that the finding given by him were not based on the evidence or that the report was based upon the dictations of Mr. Pathania or that he had given the report under pressure.

I have considered the rival contentions of the parties and have also gone through the record.

The claim of the workman is that (i) the charges are not proved against him, therefore, the punishment awarded to him is bad in law, (ii) that no procedure was set by the Inquiry Officer during the course of the inquiry, (iii) that the documents were not provided to the workman; (iv) that the report was based upon testimony of a person who was prejudicial to the workman; (v) that the workman was not provided with subsistence allowance during the course of the inquiry; (vi) that no minutes of the personal hearing were recorded; and (vii) that the punishment awarded to the workman was disproportionate to the misconduct alleged against him.

Before adverting towards the allegations, made by the workman, against the report of the inquiry made against him and the punishment awarded, it has to be understood as to what is the scope of proceeding before this Tribunal. Hon'ble Supreme Court has circumscribed the powers of even High Court with regard to the matter in which a domestic inquiry is held before a workman is punished by the employer. In the case reported as 1999(1) SCT 642, their Lordship, in para 15 of their judgement held that "the High Court appears to have over looked the settled position that in departmental proceedings, the Disciplinary Authority is the sole judge of facts and in case an appeal is presented to the Appellate Authority, the Appellate Authority has also the same powers and jurisdiction to reappreciate the evidence and to come to the conclusions on facts, being the sole fact finding authorities. Once finding of the facts based on appreciation of evidence are recorded, the High Court in Writ Jurisdiction, may not normally interfere with those factual findings unless it finds that the recorded findings were perverse and/or legally untenable. The adequacy or inadequacy of the evidence is not permitted to be canvassed before the High Court." The position of the Tribunal is not better than that of the High Court in a case of domestic inquiry. The Tribunal can only examine whether the inquiry so held was fair and proper or not. If the Tribunal comes to the conclusion that the inquiry was

fair and proper, it cannot interfere with the factual position. In that circumstances it can only examine whether the punishment awarded was proportionate to the misconduct alleged.

In order to see whether the inquiry was fair and proper, it can see whether the procedure required to be followed was followed by the inquiry officer, the Disciplinary Authority and the Appellate Authority. It is by now settled that the Disciplinary Authority and the Inquiry Officer can devise the procedure to be followed in the inquiry. The only rider as their powers is that the procedure so adopted should be reasonable and in consonance with the principles of natural justice. In the case of *Khorda and Co. Ltd. Vs. its workmen* reported as (1963) 2 LLJ 452, their Lordship of the Supreme Court have held that the requirements of natural justice is that the inquiries should be held with scrupulous regard for the requirements of rules of natural justice as questions of bonafide or malafide of employer are the issues. In the case of *Meenglass T. Estate Vs. its workmen* reported as 1963 (2 LLJ 392), their Lordships gave the requirements of natural justice broadly and according to that (i) the inquiry must be held by a person who is not biased in favour or against the parties, (ii) and a delinquent employee should be given of opportunity of the hearing of the evidence, in support of the charge and to cross-examine the witnesses produced against him and also be allowed to the evidence rebut against him, by examining witnesses including himself if he or she has any relevant matter. Hon'ble High Court of Guwahati, in the case reported as 1981 LAB.L.C 557 held that the principles of natural justice in its journey through the centuries, has shed much of its glories and is now crystallized into four principles of justice namely (1) opportunity to both the contested parties to be heard, (2) hearing before an impartial Tribunal so that no man can be a judge in his own cause; (3) decision made in full faith, and (iv) an orderly course of procedure. Hon'ble High Court of Karnataka in the case of *G.R. Venkateshwara Reddy Vs. Karnataka State Road Transport Corporation* reported as (1995) 1 LLJ 1011, has laid down the following requirement of reasonable procedure subject to any special provision relating to procedure in the relevant rules, regulations, standing orders or a statute;

(a) the employees should be informed of exact charges which he is called upon to meet. He should be given an opportunity to explain any material relied on by the Management to prove the charges, (c) the evidence of the Management witnesses should be recorded in the presence of the delinquent employee and he should be given an opportunity to cross-examine such witnesses; the delinquent employee shall either be furnished with copies of the documents relied on by the Management or be permitted to have adequate inspection of the documents relied on by the Management; the delinquent employee should be given the opportunity to produce relevant

evidence documentary and oral, which includes the right to examine self and other witnesses and to call for relevant and material documents in the custody of the employer; (e) whenever the inquiry authority is different from Disciplinary Authority, the delinquent employee shall be furnished with a copy of the inquiry report and he permitted to make a presentation to the Disciplinary Authority against the finding recorded in the inquiry report. Keeping all these principles in mind I approach to examine the grievance of the workman as made out by him though his pleadings. In my opinion his own statement is sufficient to answer the grievances raised by him.

In his statement recorded on 9th August, 2004 he admitted that he was charge sheeted by the Management and an inquiry was held against him. He further claimed to have placed on record the copies of the inquiry proceedings and stated that the Management had produced witnesses against him and he has also produced his witnesses in the inquiry. He further stated that he had engaged Shri J.C. Bhardwaj as his representative in the inquiry. He further admitted that he had the knowledge of his having been placed under suspension and that his Head Quarter was shifted to Shimla. In the same breath he stated that he had not been relieved from Dilog in Bilaspur District. He further admitted that he was provided with the copies of the documents such as the agreements dated 7th June, 1996, list of witnesses, memorandum dated 3rd Dec., 1996. He also admitted that the copy of the reply placed on record was the reply made by him. It is only in the end he made the grievance that the copies of some documents had not been provided to him. He did not name the documents the copies of which were not provided to him, before this Tribunal nor earlier. The next allegation made is vague and after thought.

I find that the workman himself has admitted that the Management had followed the procedure during the course of the inquiry as he was informed of the exact charges, which he was called upon to meet. He claims to have replied the charges. He admitted that the Management had produced the witnesses against him and he had cross examined them. He further stated that he had produced his witnesses also and during the inquiry he was represented by Shri J.C. Bhardwaj, his representative. He did not raise any grievance that at any stage of the inquiry, the Management had not followed the procedure or they had violated the principles of natural justice by not following the procedure laid down by Hon'ble Supreme Court of India and the High Courts of the country. There was, therefore, no violation of natural justice by the Management during the inquiry. The delinquent employee was given fair opportunity to adequately represent his case by cross examining the witnesses of the Management and by producing his own evidence and documents. The inquiry was held by an unbiased person and the decision was taken in good faith, without malice or as the workman has not raised a finger against the inquiry officer or the manner

it was held. No doubt he meekly alleged that the inquiry officer had relied upon the statement of the single witness the Manager, who was having prejudice against him. The workman has however not produced any evidence to show that the witness was prejudiced against him and why. He did not even put a question to that witness during inquiry to show what enmity he was harbouring against the workman. Therefore, I am of the opinion that the allegation made against the witness is without any reason and substance and is afterthought. After going through the record I do not find any justification with the workman to claim that the Management has failed to prove the charges against him; that he was not provided with documents and that the inquiry was based upon the statement of a person who was prejudiced against him.

The next claim made by the workman is that since he was not paid the subsistence allowance, therefore, the inquiry made against him and the punishment awarded thereupon is bad in law. This claim the workman has not made even in his statement of claim and is raised only in the arguments. No matter which is not raised in the pleadings cannot be looked into with providing opportunity to other side to admit or deny the same. The next claim is that the Management had awarded him the punishment even when the Industrial Dispute was pending and, therefore, they violated the provisions of Section 33(2-B) of the Act. This plea the workman has raised without bringing on record any evidence to show as to what reference was pending and whether any reference they related to the workman and the proceedings before this Tribunal. During the course of arguments he submitted that the Management has admitted that I.D. No.77/1996 was pending in the Court when the services of the workman were terminated. Mere this admission of the Management is not sufficient. The workman is further required to show that there was pendency of proceedings before the Labour Tribunal, in respect of the Industrial Dispute, between the parties. I find no evidence on record to show as to between what parties the Industrial Dispute was pending in the shape of I.D. No.77/1996 so as to get any relief on this count the workman was required to prove that the dispute referred by I.D. No.77/1996 related to the parties to the present reference and, therefore, the Management changed the service conditions of the workman during the pendency of that dispute and so violated the provisions of the Act.

After going through the inquiry proceedings, the copies of which are placed on record I am of the opinion that the Management had conducted the inquiry against the workman in a fair and proper manner. The workman got full opportunity to defend himself and in that process he was assisted by his representative. Moreover, the allegations against the workman have been proved, much on the basis of the documents against which the workman has failed to produce any evidence. Thus he has no reason to claim that the vehicles bearing No. H.P-24-537 and

HP-24-337 were not registered in his name. The Management had levelled three charges against the workman; that he had engaged himself in a private business and ignored the work of the Management he remained absent from duty on different dates without advancing any reasonable explanation; and that he had incited the workers to proceed on strike much against the interest of the Management. On facts the Inquiry Officer found the charges proved and as is noted above, the Tribunal cannot interfere in the findings of the facts as the workman has failed to show that the findings are perverse and untenable in view of the evidence brought on record. The authorities relied upon by him, in my opinion also do not help him in the circumstances of the case.

Now the next question which falls for consideration is whether the punishment awarded commensurates with the misconduct alleged against the workman. As stated earlier, there were three charges, against the workman, that he ignored the working of the Management that he indulge in side business and, therefore, he ignored the working with the Management; and that he incited the workers to go on strike against the Management without any justified cause. The Inquiry Officer found the charges proved and in view of that the punishment awarded was not disproportionate as no employer would keep an employee who is dishonest in his working and gives preference to his side business and at the top of that who unauthorizedly instigate the co-workers to go on strike much against the interest of the Management. Thus I find that the workman has failed to show that the Management was unjust in terminating his services on 31st March, 1998, therefore, their action was illegal. The authorities referred to by him in my opinion do not help him in facts and circumstances of the case. He is, therefore, not entitled to any relief. The award is passed against him. Let the copy of this award be sent to the appropriate Government for necessary action and file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 24 मई, 2007

क्र.आ.1808.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान जिक लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, उदयपुर के पंचाट (संदर्भ संख्या आईडी सं. 02/03) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-2007 को प्राप्त हुआ था।

[सं. एल-29012/50/2002-आई आर (एम)]

एन. एस. बौरा, डेस्क अधिकारी

New Delhi, the 24th May, 2007

S.O.1808.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the award (Ref. I.D. No. 02/03) of the Central Government Industrial Tribunal, cum-Labour Court, Udaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Hindustan Zinc Ltd., and their workman, which was received by the Central Government on 24-5-2007.

[No. L-29012/50/2002-IR (M)]

N.S. BORA, Desk Officer

अनुबन्ध

न्यायालय औद्योगिक विवाद अधिकरण एवं श्रम
न्यायालय, उदयपुर (राज.)

पीठासीन अधिकारी—श्री हरसुखराम पुनिया,
आर. एच. जे. एस.

प्रकरण सं. 02/03 श्रम वाद

श्री पूरणसिंह पिता उदय सिंह रावत, जाति राजपूत,
निवासी बी-27, प्रेमनगर, जावर माईन्स, जिला उदयपुर
—प्रार्थी

विरुद्ध

1. श्री डारेक्टर, हिन्दुस्तान जिक लि., जावर माईन्स
2. श्री चेयरमेन, हिन्दुस्तान जिक लि.,
स्वरूप सागर के सामने उदयपुर

—विपक्षीगण

उपस्थित :

प्रार्थी की ओर से : श्री सी. पी. शर्मा

विपक्षी की ओर से : श्री बी. एल. गुप्ता

पंचाट

दिनांक 30-3-2007

भारत सरकार के श्रम मंत्रालय न्यू दिल्ली के आदेश संख्या एल-29012/50/2002 [आई आर (एम)] दिनांक 4-3-2003 के द्वारा निम्नांकित विवाद इस न्यायालय को अधिनियम हेतु प्रेषित किया गया :

“Whether the action of Management of Hindustan Zinc Ltd. in retiring Shri Pooran Singh from services w.e.f. 30-6-2001 justified? If not, to what relief is the workman is entitled?”

उक्त आशय का प्रसंग प्राप्त होने पर न्यायालय द्वारा दिनांक 4-4-2003 को नियमित श्रम वाद संख्या 02/03 दर्ज रजिस्टर किया जाकर पक्षकारान को नोटिस जारी किए गए। जिस पर प्रार्थी की ओर से क्लेम व विपक्षी की ओर से जवाब पेश किया गया।

प्रार्थी की ओर से प्रस्तुत क्लेम के तथ्य संक्षेप में इस प्रकार है कि विपक्षी के अधीन प्रार्थी की नियुक्ति जावर माईन्स इकाई में दिनांक 7-6-66 को अस्थायी श्रमिक के पद पर की गई। भर्ती के

समय प्रार्थी से उसकी जन्म तिथि नहीं मांगी गई न किसी प्रकार की कोई मैडिकल जांच कराई गई। फरवरी, 1968 में प्रार्थी को हैल्पर के स्थाई पद पर नियुक्त किया और उससे जन्म तिथि मांगी जिस पर प्रार्थी ने देहरादून (घर) से भंगाकर प्रमाण पत्र पेश करने को कहा। जन्म तिथि प्रमाण पत्र नहीं होने से कम्पनी के डाक्टर ने भर्ती के समय मेरी उम्र अन्दाज से 25 वर्ष लिख दी। मैंने इस पर आपत्ति की कि मेरी उम्र इस समय 19 वर्ष है। प्रार्थी देहरादून गया व स्कूल का ट्रांसफर सर्टिफिकेट लाकर कम्पनी में जमा कराया। उसमें इस प्रार्थी की जन्म तिथि 1-3-49 दर्ज है। इसके बाद जब-जब भी जहाँ-जहाँ भी कम्पनी में आवश्यकता हुई प्रार्थी ने उसकी जन्म तिथि 1-3-49 ही बताई। सन् 1969 में प्रोविडेंट फण्ड के फार्म भरे उसमें भी उसने 1-3-49 जन्म तिथि दर्ज कराई। भवन निर्माण हेतु लोन लिया उसमें भी उसमें भी ये ही तिथि अंकित की। परन्तु सन् 1996 में जब पेंशन फार्म भरे गए तब प्रबन्धक द्वारा मेरी जन्म तिथि 7-6-41 लिखी तब प्रार्थी प्रबन्धक से मिला उसने यह बताया कि प्रार्थी की जन्म तिथि 1-3-49 है और प्रोविडेंट फार्म में 7-6-41 गलत दर्ज है, इसके बावजूद भी जन्म तिथि में कोई सुधार नहीं किया। फिर प्रार्थी ने इसके सुधार हेतु 17-8-97 को एक पत्र दिया जिसे विपक्षी ने अस्वीकृत कर दिया। प्रार्थी ने दुप्लीकेट टी.सी निकलवा कर भी पेश की परन्तु उसकी जन्म तिथि में कोई सुधार नहीं किया। आदेश दिनांक 1-4-2001 द्वारा प्रार्थी को दिनांक 30-6-2001 को अपराह्न को सेवानिवृत्त करने का आदेश पारित कर दिया व उसे 30-6-01 को सेवानिवृत्त कर दिया। इस आधार पर प्रार्थी जून, 2001 में किसी भी रूप में सेवानिवृत्त नहीं हुआ। इसलिए प्रार्थना की है कि प्रबन्धक द्वारा श्रमिक को दिनांक 30-6-2001 को सेवानिवृत्त करना अनुचित एवं अवैध घोषित किया जाए। साथ ही दिनांक 30-6-2001 से निरन्तरता के साथ समस्त लाभ सहित सेवा में लिया जाने का आदेश दिया जावे।

विपक्षीगण ने अपने जवाब में ये आपत्तियाँ ली हैं कि प्रार्थी की जन्म तिथि 1-3-49 सही नहीं है और न ही हो सकती है। प्रार्थी ने 1968 में डी.ए.वी. स्कूल की अंकतालिका प्रस्तुत नहीं की। प्रार्थी सेवा निवृत्ति के पश्चात् हिन्दुस्तान जिक लि. के कान्ट्रक्टर अरावली कन्स्ट्रक्शन कं. में सुपरवाइजर के पद पर कार्यरत है। स्थाई आदेश की धारा 5(ग) के अन्तर्गत रेकार्ड जन्म तिथि में परिवर्तन अनुज्ञेय नहीं है। प्रार्थी ने सेवा में स्थायीकरण के 21 वर्ष पश्चात् उक्त स्कूल प्रमाण पत्र प्रस्तुत किया जो प्रार्थी के क्लेम को संदेहास्पद बनाता है। प्रार्थी न्यायालय के समक्ष स्वच्छ हाथों से नहीं आया है। पैरावाइज उत्तर में विपक्षीगण ने यह अंकित किया है कि दिनांक 7-6-66 को अस्थायी श्रमिक के रूप में भर्ती के समय कोई मैडिकल जांच नहीं की गई थी। प्रार्थी ने जो स्कूल प्रमाणपत्र पेश किया वह जायज नहीं है तथा नियमानुसार प्रस्तुत नहीं किया गया है। प्रोविडेंट फार्म के नोमिनेशन में प्रार्थी द्वारा अपनी घोषित जन्म तिथि में परिवर्तन करने से प्रार्थी की अभिलेख में अंकित जन्म तिथि परिवर्तित नहीं हो सकती है। भवन निर्माण हेतु ऋण आवेदन पत्र में अभिलेख से परे जाकर कोई जन्म तिथि अंकित करने मात्र से रिकार्ड में अंकित जन्म तिथि में कोई परिवर्तन नहीं हो जाता है। प्रार्थी द्वारा जन्म तिथि में परिवर्तन कराने की प्रार्थना नियमानुसार एवं उचित नहीं होने से स्वीकार नहीं की गई।

प्रार्थी को दिनांक 30-6-2001 को अपराह्न को सेवामुक्ति सुपरएन्युएशन की आयु प्राप्त करने पर दिया गया। प्रार्थी द्वारा सेवानिवृत्ति के सम्बन्ध में प्रस्तुत आपत्ति नियमानुसार मेन्टेनेबल नहीं होने तथा सेवानिवृत्ति की आयु में परिवर्तन करने की प्रथा एवं व्यवस्था नहीं होने से उचित रूप से स्वीकार किया गया तथा प्रार्थी को 30-6-2001 को सेवानिवृत्ति कर दिया गया। प्रार्थी ने 1966 में भर्ती के समय आयु 25 वर्ष बताई इस आधार पर उसे नियुक्त किया गया। अतः प्रार्थी का क्लेम सव्यय निरस्त किए जाने की प्रार्थना की।

प्रार्थी ने अपने क्लेम के समर्थन में स्वयं का शपथ पत्र प्रस्तुत किया जिस पर विपक्षी प्रतिनिधि ने जिरह की। विपक्षी की ओर से कोई साक्ष्य पेश नहीं हुई। दोनों पक्षों ने संबंधित दस्तावेज को प्रदिशत कराया।

मैंने दोनों पक्षों के प्रतिनिधि की बहस सुनी। पत्रावली का अवलोकन दिया।

इस प्रकरण में मुख्यमुद्दा जन्म तिथि व सेवानिवृत्ति तिथि का है। प्रार्थी ने अपनी जन्म तिथि 1-3-49 बताई है, जिसके आधार पर यह बताया गया है कि उसके स्कूल प्रमाण पत्र में जन्म तिथि 1-3-49 दर्ज है। उसने अलग-अलग दस्तावेजों में उक्त जन्म तिथि दर्ज की है। विपक्षी संस्थान इस जन्म तिथि को सही नहीं मान रहा है। विपक्षी संस्थान का यह तर्क है कि प्रार्थी ने सर्वप्रथम दिनांक 7-6-1966 को अस्थायी रूप से श्रमिक के पद पर कार्य प्रारम्भ किया था। फरवरी, 1968 में उसे हैल्पर के पद पर नियुक्ति दी थी, उस वक्त उसकी उम्र के बारे में डॉक्टरी मुआयना करवाया गया था। डाक्टरी प्रमाण पत्र के अनुसार उसकी उम्र 25 वर्ष थी। जिस दस्तावेज पर प्रार्थी के दस्तखत हैं। प्रार्थी ने अपने डिक्लोरेशन में अपनी उम्र 25 वर्ष बताई हैं प्रार्थी ने कई वर्षों तक अपनी जन्म तिथि प्रमाण पत्र कार्यालय में प्रस्तुत नहीं कर उसे जानबूझ कर छिपाया और वर्षों बाद उसे प्रस्तुत किया। प्रमाण पत्र में दर्ज जन्म तिथि 1-3-49 को सही मानें तो प्रार्थी उस दिन नौकरी पाने की उम्र तक नहीं पहुँचा था। ऐसी स्थिति में प्रार्थी की उम्र वर्ष 1968 में 25 वर्ष थी।

मैंने दोनों पक्षों द्वारा प्रस्तुत उक्त तर्कों पर गौर किया। पत्रावली पर उपलब्ध मौलिक एवं दस्तावेजी साक्ष्य का पूर्णरूपेण अवलोकन किया। प्रार्थी पूर्णसिंह द्वारा प्रस्तुत शपथ पत्र पर विपक्षी प्रतिनिधि ने जिरह की है, उस जिरह में प्रार्थी ने यह स्वीकार किया है कि प्रदर्श एम-1 डिक्लोरेशन उसने दिनांक 24-1-68 की विपक्षी कम्पनी में दिया था, जिस पर ऐसे बी उसके हस्ताक्षर हैं। उसी रोज उसका मैडिकल हुआ था जो डॉक्टर दशौरा ने किया था, उस प्रमाण पत्र प्रदर्श एम-2 पर भी उसके अंगूठा निशानी है। प्रार्थी ने अपनी जिरह में इस बात को भी स्वीकार किया है कि प्रदर्श एम-2 व प्रदर्श एम-5 पर उसकी उम्र 25 वर्ष लिखी हुई है, उसने अधिक उम्र लिख देने के विरुद्ध सिविल कोर्ट में कोई दावा पेश नहीं किया। विपक्षी ने जो जवाब प्रस्तुत किया है, उसमें वर्णित मुख्य बिन्दुओं की पुष्टि प्रार्थी की जिरह से हो जाती है। ऐसी स्थिति में प्रार्थी द्वारा प्रस्तुत जन्म तिथि प्रमाण पत्र सही नहीं माना जा सकता है।

वर्ष 1963 में प्रार्थी ने जो डिक्लोरेशन पेश किया था और फिर प्रार्थी का डाक्टरी मुआयना हुआ, उसमें प्रार्थी की उम्र 25 वर्ष बताई

गई है, यह सही है कि जन्म तिथि के सम्बन्ध में डॉक्टर द्वारा किए गए मैडिकल मुआयने में जो उम्र बताई जाती है, उसमें आगे व पीछे वर्ष-छः मास का अन्तर आ सकता है, लेकिन 8-10 वर्ष का अन्तर कभी नहीं आ सकता है। ऐसी स्थिति में वर्ष 1968 में प्रार्थी की उम्र 25 वर्ष मानी जाने के पर्याप्त आधार हैं। विपक्षी संस्थान में सेवा की कुल अवधि 60 वर्ष की उम्र में थी, ऐसी स्थिति में प्रार्थी को वर्ष 2003 में सेवानिवृत्ति दी जानी चाहिए थी, लेकिन विपक्षी संस्थान ने प्रार्थी को 30-6-2001 को ही सेवानिवृत्ति दे दी जो कतई गलत थी। जब डॉक्टर ने प्रार्थी की जन्म तिथि मैडिकल मुआयना करने के बाद वर्ष 1968 में 25 वर्ष बताई थी तो फिर उस तिथि को विपक्षी संस्थान ने क्यों नज़रअन्दाज़ किया और फिर प्रार्थी को दो वर्ष पूर्व क्यों सेवानिवृत्त किया। विपक्षी की यह कार्यवाही अनुचित एवं विधि-विरुद्ध थी।

इन उपरोक्त हालात में प्रार्थी की जन्म तिथि 7-6-41 नहीं मानी जाकर 7-6-43 मानी जाती है तथा 60 वर्ष उम्र पूरी होने पर प्रार्थी की सेवानिवृत्ति की तिथि 7-6-2003 होती है, जबकि प्रार्थी को दो वर्ष पूर्व दिनांक 30-6-2001 को सेवानिवृत्त कर दिया गया। विपक्षी की यह कार्यवाही गलत थी। इन हालात में प्रार्थी दिनांक 30-6-2001 से दिनांक 30-6-2003 तक दो वर्ष की अवधि तक अपना वेतन भत्ते व अन्य परिलाभ प्राप्त करने का अधिकारी है। प्रार्थी ने अपनी जन्म तिथि दिनांक 1-3-49 बताकर उसके अनुसार सेवानिवृत्ति तक का लाभ प्राप्त करने की प्रार्थना की है, प्रार्थी द्वारा चाहा गया यह अनुरोध भी स्वीकार करने योग्य नहीं है। प्रार्थी का यह क्लेम आवेदन पत्र आंशिक रूप से स्वीकार करते हुए प्रार्थी को दिनांक 30-6-2001 से 30-6-2003 तक के वेतन भत्ते एवं अन्य परिलाभ दिलाए जाना उचित है और उसकी सेवानिवृत्ति तिथि 30-6-2003 मानी जाना उचित है।

अतः भारत सरकार के श्रम मंत्रालय द्वारा प्रेषित विवाद को उत्तरित करते हुए पंचाट इस प्रकार पारित किया जाता है कि प्रार्थी पूर्णसिंह को दिनांक 30-6-2001 को सेवानिवृत्त किया जाना उचित नहीं था, प्रार्थी को दिनांक 30-6-2003 को सेवानिवृत्त करना था, ऐसी स्थिति में प्रार्थी दिनांक 30-6-2001 से 30-6-2003 तक विपक्षी संस्थान से उसे मिलने वाले वेतन भत्ते एवं अन्य परिलाभ प्राप्त करने का अधिकारी है। विपक्षी पंचाट प्रकाशन के दो माह में प्रार्थी को उक्त परिलाभों का भुगतान करे तथा उसे दिनांक 30-6-2003 को सेवानिवृत्त करने का आदेश जारी करे।

पंचाट प्रकाशनार्थ भारत सरकार के श्रम मंत्रालय को भेजा जाए।

हरसुखराम पूनिया, पीठासीन अधिकारी

नई दिल्ली, 24 मई, 2007

का.आ. 1809.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बौला क्रोमाइट माइन्स ऑफ एफएसीओआर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के

पंचाट (संदर्भ आईडीसं. 182/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-2007 को प्राप्त हुआ था।

[सं. एल-29012/9/1998-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 24th May, 2007

S.O.1809.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. I.D. No. 182/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Boula Chromit Mines of FACOR, and their workman, which was received by the Central Government on 24-5-2007.

[No. L-29012/9/1998-IR (M)]

N. S. BORA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT:

Shri N.K.R. Mohapatra,

Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

Tr. Industrial Dispute Case No. 182/2001

Date of Passing Award—26th April, 2007

BETWEEN:

The Management of the Chief
Executive (Mines), Boula Chromite
Mines of FACOR, Kuans,
Bhadrak-756100

1st Party-Management

And

Their Workmen, represented through the General
Secretary, Chrome Zone Employees Union, At/PO-Soso,
Distt. Keonjhar, Orissa

—2nd Party, Union

APPEARANCES:

Ashok Kumar Mishra : For the 1st Party Management

Ashok Kumar Rout : For the 2nd Party, Union

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-29012/1998-IR (M), dated 19-8-1998 :

"Whether the action of the Management of Boula Chromite Mines of FACOR in dismissing Shri A.K. Rout, Senior Office Assistant vide order dated 25-2-1997 without any charge sheet/conducting domestic enquiry is justified? If not, to what relief the workman is entitled to?"

"Whether the demand of Shri A.K. Rout, workman of Boula Chromite Mines of FACOR for reinstatement with full back wages is justified? If so, to what relief the workman is entitled to?"

2. After necessary issues were framed the parties filed a joint petition of compromise stating to have resolved the dispute on payment of Rs. 70,000 in full satisfaction of the claim of the workman. The workman in turn agreed to have received the aforesaid amount vide cheque bearing No. 677857 dated 6-4-2007 drawn on the State Bank of India, Bhadrak, Orissa and granted receipt thereof to the management in full satisfaction of the dispute under reference.

3. In view of the above this award on compromise is passed in terms of the above compromise dated 6-4-2007. Pursuant to the compromise, the workman is not entitled to be reinstated in service nor is entitled for any other relief except the amount he has already received in lieu of his reinstatement and other consequential benefits.

4. Reference is answered accordingly.

Dictated and corrected by me.

N. K.R. MOHAPARTA, Presiding Officer

नई दिल्ली, 24 मई, 2007

का. आ. 1810.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ओ एम सी लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय भुवनेश्वर के पंचाट (संदर्भ संख्या आई डी. सं. 104/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-2007 को प्राप्त हुआ था।

[सं. एल-29012/56/95-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 24th May, 2007

S. O. 1810.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. I.D. No. 104/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of OMC Ltd. and their workman, which was received by the Central Government on 24-5-2007.

[No. L-29012/56/95-IR(M)]

N. S. BORA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, BHUBANESWAR

Present :

SHRI N.K.R. Mohapatra,
Presiding Officer, C.G.I.T.-Cum.-Labour Court,
Bhubaneswar.

Tr. INDUSTRIAL DISPUTE CASE NO. 104/2001

Date of Passing Award—30th March, 2007

Between :

The Management of the General Manager,
(Chrome), OMC Ltd., At./Po. J.K. Road,
Dist. Jajpur, Cuttack.

...1st Party-Management

And

Their Workman, Shri B.K. Mohapatra,
At./Po. Badabiruhan, P.O. Korai, Dist. Jajpur,
Cuttack.

...2nd Party-workman.

Appearances :

M/s. J. Mohanty & : 2nd Party-Workman.

M/s. J.B. Pattnaik, Advocate : For the 1st Party-
Management

M/s. N.K. Mishra, Advocate : For the 2nd Party-
Workman.

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-29012/56/95-IR(Misc.), dated 30-10-1995 :

"Whether the action of the Management of OMC Ltd., in terminating the service of workman Shri B.K. Mohapatra, Ex-Store Issuer of Kathpal Chromite Mines without following the principles of natural justice as well as the provisions of the Certified Standing Orders is justified? If not, to what relief the workman is entitled to?"

2. The shortly stated case of the workman is as follows :—

After an interview the workman was initially appointed on 21-9-1987 as a Store Issuer on daily wage basis for a period of 89 days vide Memo No. 10687 dated 15-9-1987 of the Management. This period of engagement was further extended from time to time. While this being so on 12-8-1988 he left his place of work urgently on health ground and sent leave application on 12-8-1988 by post

addressed to the Mines Manager, Kathpal Chromite Mines. In the meantime the Management in its order No. 8914 dated 16-8-1988 offered him engagement in a weekly post of Store Issuer which he could not avail during such leave period as while on leave he met with an accident and hospitalized in a private hospital. As per the advice of the treating physician he again extended his leave by sending an application for leave and remained under medical treatment upto 31-1-1992. After obtaining a fitness certificate from the doctor on 1-2-1992 he proceeded to join in his work place and submitted a joining report on 4-2-1992 to resume his duty but he was not allowed to do so nor his joining report was accepted. As a result he approached the General Manager at Jajpur and having received nothing positive submitted a representation to the Chairman-cum Managing Director of the Management on 5-2-1992 followed by two reminders on 13-7-1992 and 8-9-1992 to consider his case. While these representations were pending for consideration he received a call letter from the Management vide Memo No. 14366, dated 26-10-1992 to appear in an interview for the post of Store Issuer. As initially he had joined in that post after being selected in an interview he did not like to appear in the interview for the self same post. Rather he preferred O.J.C. 8000/1992 challenging the above order. After the Hon'ble High Court passed an order directing the Management to dispose of his representation he received a communication from the Management vide Memo No. 611, dated 1-3-1993 that his case would be considered against future vacancies. After the above communication he made few more representations and ultimately when he was communicated in Letter No. 32121, dated 18-10-1994 that his case cannot be considered for the present he raised an Industrial Dispute culminating the same in the present reference. It is alleged by the workman that the action of the Management in not allowing him to join in duties pursuant to his joining letter dated 4-2-1992 tantamounts to refusal of employment, the same having been done in violation of the Standing Order. The above action of the Management is further bad the same being violative of Section 25-F of the Industrial Disputes Act.

3. In its written statement the Management admits that the workman was given appointment after necessary interview as a Store Issuer on temporary basis for a period of 89 days from 21-9-1987 and subsequently it was extended from time to time till 17-9-1988. It is further contended by the Management that while the above terms of the workman was in vogue the Management on sympathetic consideration of his representation gave an offer in its letter No. 1913 dated 16-8-1988 to join in a weekly post of Store Issuer. But the workman did not accept the said order nor did he join in that post within the given date. Subsequently it was learnt from the Mines Manager, Kathpal under whom the workman was working that he has absented himself from duty without any leave

application since 12-8-1988. As nothing could be known about him up to 2-1-1989 the Management sent two show cause notices to him, one on 9-1-1989 and the other on 6-4-1989 by Regd. Post, but it were of no effect. As a result the Management took it for granted that the workman has voluntarily abandoned his job with effect from 12-8-1988 as per the Certified Standing Order applicable to him. Long thereafter the Management for the first time received a letter dated 4-2-91 from the workman to permit him to join after his recovery from illness. Thereafter two other letters dated 8-2-1991 and 11-3-1991 were received from the workman to permit him to join one month later on the ground of his ill health. Thereafter in response to the show cause notice dated 6-4-1989 issued earlier the workman sent two replies one to the Manager P & A, J.K. Road and another to General Manager, OMC Limited, J.K. Road on 14-3-1991 and 20-9-1991 requesting to reconsider his case for re-engagement and then on 4-2-1992 he reported for duty by producing medical certificate and fitness certificate etc. before the Manager Mines, Kathpal. As by then the workman was considered to have already abandoned the job since 12-8-1988 the concerned Manager did not allow him to join for his prolonged unauthorized absence from 12-8-1988. It is further averred by the Management that for remaining absent from 12-8-1988 the workman had never sent any application to the Management though it is otherwise claimed by him. It is also averred by the Management that after he was refused to join on 4-2-1992 by the Manager, Mines, Kathpal he made several representations to the Management in consideration of which he was offered a post of a Mazdoor on semi-skilled wage against a vacant post of Store Issuer on 44 days basis vide his Office letter No. 21483 dated 22-7-1992 but the workman in his subsequent representations insisted to be posted in his former post. In the meantime the various documents, medical certificates and other documents filed by the workman along with his representations were found to be forged and not reliable and therefore, the Management in his subsequent letter No. 28354, dated 1-10-1994 was compelled to cancel its earlier letter No. 21483, dated 22-7-1992 in which he was offered with a post of Mazdoor. Subsequently as per the order of the Hon'ble High Court passed in O.J.C. 8000/92 preferred by the workman the Management also intimated him under the office letter No. 6117, dated 1-3-1993 that his case can be considered in future when a vacancy would arise. On receipt of a further representation the workman in the year 1994 in the month of August-September he was also further intimated that he cannot be absorbed as a permanent employee under any organization of the OMC Limited. Thus by narrating the above the Management in nutshell has pleaded that the refusal of employment to the workman on 4-2-1992 was justified for his remaining unauthorizedly absent without any leave application since 12-8-1988 tantamounts to abandonment of job as per the Certified Standing Order applicable to him.

4. On the basis of the above pleadings of the parties the following two issues were framed.

ISSUES

1. Whether the action of the Management of O.M.C. Ltd., in terminating the service of workman Shri B.K. Mohapatra, Ex-Store Issuer of Kathpal Chromite Mines without following the principles of natural justice as well as the provisions of the certified?

2. To what relief, if any, the workman is entitled?

5. Each party has examined one witness besides producing some documentary proof.

ISSUE NO. I & II

6. These issues are taken up together as they are inter-linked. At the very outset it may be stated that while according to the Management the workman had abandoned his service by remaining continuously absent unauthorisedly since 12-8-1988, the workman contents otherwise that he had sent necessary leave application from time to time on medical grounds. In view of the above controversy the only question to be seen is how far each of them have been able to establish their stands.

7. Admittedly the workman was initially appointed as a Store Issuer after necessary interview with effect from 21-9-1987 for a period of 89 days (Ext.-2). It is also the admitted case of the Management that on expiry of the above terms the workman was given extension time to time up till 17-9-1988 but before expiry of such period he remained unauthorisedly absent from 12-8-1988. It is further contended by the Management that by remaining absent continuously the workman had lost his lien over the post as per the certified Standing Order and therefore by the time he intended to rejoin in his post on 4-2-1992 he had already lost the job by operation of law. This averment and the evidence given to that effect by the Management witness shows that the Standing Order of the Management was squarely applicable to the workman. Rule 14(3) of the Standing Order deals with loss of lien of a workman. But this principle is found to be applicable only in cases where a workman does not report for duty after expiry of the leave period already granted to him. As accordingly to the Management the workman had left the place of work without any leave application i.e. without any leave being granted, the Management can not therefore be said to be just in saying that the workman had already lost his lien by the time he intended to rejoin on 4-2-1992. Besides under the said rule, in case of a workman losing his lien the Management is to keep him on "Badli list" which is found to have not been done so by the Management.

8. Under Rule 20 of the Standing Order willful or habitual absence from duty without leave application amounts misconduct and according to Rule 18(2) of the Standing Order a temporary worker like the workman can

not be terminated as a punishment unless he has been given an opportunity of explaining the charges of misconduct alleged against him in the manner prescribed in Rule 18 (1). From the evidence of the Management it appears that the workman was simply issued with two show cause notices on 9-1-1989 and 6-4-1989 but he was never charge-sheeted nor issued with any termination letter as per the Standing Order un-till the date of his reporting for duty on 4-2-1992. Therefore, the entire action of the Management in not allowing him to join in duty on 4-2-1992 amounts to illegality.

9. On the other hand the workman in support of his case has filed several documents of which Ext.-21 to 35 appears to be more relevant for the present purpose. Under these exhibits he has produced copies of his several leave applications each supported with postal certificates of posting receipts and medical certificates granted by his treating physician during the period from 12-8-1988 to 13-9-1991. On perusal of these postal receipts one can hardly believe that the same have been created subsequently by the workman for the purpose of this case and therefore the copy of his leave applications which he has enclosed to these postal receipts can safely be relied upon. From his evidence and the narration of these leave applications it is evident that on getting an information that his father has been murdered the workman left the place of work on 11-8-1988 and on the following day he fell down in shock in an unconscious state sustaining bone injury. Therefore, on the very day he sent his leave application dated 18-8-1988 (Ext.-21) and then from to time he extended his leave on medical ground as it appears from his other leave applications, medical certificates and postal receipts covered under Ext.-22 to 35. From his another application marked Ext.-10/1 and its enclosures it further appears that on 17-3-1991 he sent the above application under certificate of posting for grant of medical leave. His other correspondences marked Ext.-6 to 10 further indicates that by narrating his plight and precarious health condition he in reply to one of the letters of the Management had requested time and again not to throw him out of service. From his several letters it also appears that while applying for extension of leave he had made positive reference to his earlier leave applications. Therefore, in these circumstances the stand of the Management that, it had received no communication from the workman regarding leave can not be believed.

10. It was argued by the Management that the various documents filed by the workman are all created ones. But in the face of several postal receipts filed by the workman it can not be so believed. Besides had the Management pursuant to its Standing Order charge-sheeted the workman and asked him to face the enquiry the workman would have been in a position to explain his position and the Management having not done so cannot now question the genuineness of these leave applications. When admittedly

the workman has been refused employment without any departmental enquiry as envisaged under its Standing Order the entire action of the Management is bound to be vitiated.

11. It is no doubt true that while making the reference the Government has failed to mention the exact date on which the alleged termination had taken place. This is no doubt a serious omission, which ultimately can render the reference bad. But when parties do not dispute the alleged termination date to be 12-8-1988 and that being the center of reference, no serious view of non-mentioning of such date in the reference can be taken at this stage.

12. Accordingly in the result it is held that the action of the Management in treating the workman to have had abandoned the job voluntarily from 12-8-1988 and its further conduct of not allowing the workman to join in his duties on 4-2-1992 amounts to illegality and not according to the procedure laid down in its Standing Order. Therefore the Management is directed to reinstate the workman in his former post with full back wages and other service benefits as applicable to an employee of his cadre.

13. Reference is answered accordingly.

Dictated & Corrected by me.

N.K.R. MOHAPATRA, Presiding Officer

LIST OF WITNESSES EXAMINED ON BEHALF OF THE WORKMAN

Workman Witness No. 1 —The workman Himself
Shri Basant Kr. Mohapatra.

LIST OF WITNESSES EXAMINED ON BEHALF OF THE MANAGEMENT

Management Witness No.1— Shri Bhaskar
Chandra Panda.

LIST OF EXHIBITS ON BEHALF OF THE 2ND PARTY-WORKMAN

- Ext.-1. —Interview Call letter dated 31-7-1986.
- Ext.-2. —Copy of appointment order dated 15-9-1987.
- Ext.-3. —Duty Chart dated 30-9-1987.
- Ext.-4. —Quarter allotment order dated 11-7-1988.
- Ext.-5. —Letter dated 6-4-1989 calling for explanation.
- Ext.-6. —Copy of the representation dated 7-1-1991 for extension of time.
- Ext.-7. —Copy of the representation dated 4-2-1991 for extension of time.
- Ext.-8. —Copy of the representation dated 8-2-1991 for extension of time.
- Ext.-9. —Copy of the representation dated 11-3-1991 for extension of time.
- Ext.-10. —Copy of the representation dtd. 14-3-1991 for extension of time.
- Ext.-10/1. —Copy of the representation dtd. 17-3-1991 for extension of time.

- Ext.11. —Letter No.2565, dtd. 8-3-1991 regarding consideration of vacancies.
- Ext.-12. —Copy of Fitness certificate dated 1-2-1992.
- Ext.-13. —Copy of the Joining report dated. 4-2-1992.
- Ext.-14. —Copy of the mercy petition dated. 4-2-1992.
- Ext.-15. —Copy of the representation dated 8-9-1992.
- Ext.-16. —Copy of the representation dated 23-8-1994.
- Ext.-17. —Copy of representation dated 5-9-1994.
- Ext.-18. —Copy of the letter dated 18-10-1994 rejecting the prayer for employment.
- Ext.-19. —Copy of the counter dated 14-1-1995 filed before the A.L.C.
- Ext.-20. —Copy of the failure report dated 12-5-1995.
- Ext.-21. —Copy of the letter dated 12-8-1988 of the workman to the Mines Manager.
- Ext.-22. —Copy of the application dtd 13-9-91 of the workman to the Mines Manager .
- Ext.-22/1. —Postal receipt in support of sending letter under Certificate of posting.
- Ext.-23. —Copy of the letter dated 15-6-1991 of the workman to the Mines Manager.
- Ext.-23/1. —Postal receipt in support of sending letter under certificate of posting.
- Ext.-24. —Copy of the letter dated 10-11-88 of the workman to the Manager, Mines.
- Ext.-25. —Copy of the letter dated 1-1-1989 of the workman to the Manager, Mines.
- Ext.-26. —Copy of the letter dated 1-4-1989 of the workman to the Manager, Mines.
- Ext.-27. —Copy of the letter dated 21-4-89 of the workman to the Manager, Mines.
- Ext.-28. —Copy of the letter dated 30-6-1989 of the workman to the Manager, Mines.
- Ext.-29. —Copy of the letter dated 28-9-1989 of the workman to the Manager, Mines.
- Ext.-30. —Copy of the letter dated 27-12-89 of the workman to the Manager, Mines.
- Ext.-31. —Copy of the letter dated 25-3-90 of the workman to the Manager, Mines.
- Ext.-32. —Copy of the letter dated 23-6-90 of the workman to the Manager Mines.
- Ext.-33. —Copy of the letter dated 21-9-90 of the workman to the Manager, Mines.
- Ext.-34. —Copy of the letter dated 20-12-90 of the workman to the Manager, Mines.
- Ext.-35. —Copy of the letter dated 4-1-91 of the workman to the Manager, Mines.

- Ext-36. —Copy of the letter dated 5-2-92 of the workman to the CMD, OMC, BBSR
- Ext-37. —Copy of the Postal receipt.
- Ext-38. —Copy of the application dated 13-7-1992.
- Ext-38/1. —Postal Receipt.
- Ext-38/2. —Postal A.D. Card.

LIST OF EXHIBITS ON BEHALF OF THE 1ST PARTY-MANAGEMENT

- Ext-A —Joining report dated 21-7-1987.
- Ext-B —Offer of Appointment dated 16-8-1988.
- Ext-C —Letter dated 8-3-1991 of the Management.
- Ext-D —Copy of Standing Order.
- Ext-E —Copy of letter No. 6117/OMC/93, dated 27-2-1993/1-3-1993
- Ext-E/1 —Copy of the Letter No. 32121/OMC/94 dated 18-10-1994.
- Ext-F —Copy of Order No. 21483/HO/OMC/Bhubaneswar dated 22-7-1992.
- Ext-G —Copy of Order No.5, dated 26-11-1992 of Orissa High Court in OJC 8000/92.

नई दिल्ली, 24 मई, 2007

का. आ. 1811.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई. बी. पी. क. लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या आई डी. सं. 53/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-2007 को प्राप्त हुआ था।

[सं. एल-30011/1/2003-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 24th May, 2007

S. O. 1811.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. I.D. 53/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow, now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of I.B.P. Corpn. Ltd. and their workman, which was received by the Central Government on 24-5-2007.

[No. L-30011/1/2003-IR(M)]

N. S. BORA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT:

Shrikant Shukla : Presiding Officer

I.D. No. 53/2003

Ref. No. L-30011/1/2003-IR(M) Dt. 1-5-2003

Between

Sh. B.P. Singh ((Authorised Representative),
Engineering Mazdoor Sangh, 281/171
Mavaiyya, PO Rajendra Nagar,
Lucknow (U.P.)

And

Senior Depot Manager,
IBP Corpn. Ltd., Bulk Petroleum Depot,
Near Amausi Railway Station, Amausi
Lucknow (U.P.)

AWARD

The Government of India in the Ministry of Labour, New Delhi referred the following dispute vide No. L-30011/1/2003/IR(M) dt. 1-5-2003 for adjudication to the Presiding Officer CGIT-Cum-Labour Court, Lucknow.

“क्या प्रबंधन मैं आई.बी.पी. कम्पनी लि.आमौसी, लखनऊ द्वारा श्री बच्चन लाल पासवान, पुत्र श्री चन्द्रभान पासवान को 17-3-97 से लगातार कैजुएल कर्मकार के पद पर कार्य लेते रहना एवं उसका नियमितकरण नहीं करना न्यायोचित तथा न्यायसंगत है? यदि नहीं तो कर्मकार किस अनुतोष की अधिकारी है ?

The case of the trade union is that Sri Bachchan Lal Paswan was appointed by the competent authority of IBP Co. Ltd., Bulk Petroleum Depot, Near Amausi Railway Station, Lucknow on 17-3-1997, but while conducting necessary proceedings before the Asstt. Labour Commissioner (C), Lucknow who recommended the Central Government to refer the dispute for adjudication, the parties concerned by means of his letter dt. 13-1-2003 terminated the services of the workman. The employer also terminated the services of Sri Aftab Ahmed Siddiqui by the same order. The workman raised Industrial Dispute with regard to termination under the provisions of I.D. Act, 1947 before the Asstt. Labour Commissioner (C), Lucknow and the authority after conducting the necessary formalities, submitted his failure of conciliation report to the Ministry concerned. Sri Aftab Ahmed Siddiqui who was also terminated alongwith workman Sri Bachchan Lal Paswan challenged the termination order before the Hon'ble High Court by means of the writ petition No. 1175(S/S) of 2003. Aftab Ahmed Siddiqui Vs. General Manager (Northern Region), IBP Co. Ltd. and others and the Hon'ble High Court by interim order dt. 21-2-2003 stayed the operation of the impugned termination order. Since by the same order the services of the workman Sri Bachchan Lal Paswan were also terminated as such he has also advised to file the writ petition against the termination order and accordingly concerned workman filed a writ petition No. 1770(S/S) of 2003 and challenged the termination order dt. 13-1-2003. Initially by the interim order dt. 28-3-03 the Hon'ble High Court also stayed the operation of the termination order dt. 13-1-03, but subsequently the aforesaid writ petition has been dismissed vide judgment and order dt. 31-7-03 on the ground that the workman

concerned has already availed the alternative remedy, which is available under the provisions of the ID Act, 1947 and the matter is still pending. It is also stated that in the statement of claim filed by the trade union that the writ petition No. 1175(S/S) of 2003 is still pending before the Hon'ble High Court and till the date interim order passed by the Hon'ble High Court is continuing. In the circumstances it is clear that employees are adopting unfair labour practices which is prohibited under Section 25T of ID Act and the employers are using colourable exercise of powers, which is against the provisions of the ID Act as well as item 10 of Schedule 5 of the aforesaid Act. Accordingly, the worker has prayed that the court may hold that action of the employers in not regularising the services of the workman Sri Bachchan Lal Paswan is illegal and unjustified and accordingly he is entitled to get the regularisation of the services and all consequential benefits.

The worker has filed following documents along with application C-11;

1. Photo copy of letter dt. 28-4-99 issued by Depot Manager.
2. Photo copy of letter dt. 25-9-01 issued by Chief Manager (Personnel and Administration).
3. Photo copy of letter dt. 13-1-2003 whereby services of the workman have been terminated.
4. Photo copy of the interim order dt. 21-2-03 passed in writ petition No. 1175(S/S) of 2003 Aftab Ahmed Siddiqui Vs General Manager IBP Co. Ltd. and others.

The Depot Manager of the opposite party has filed the written statement stating that Sri Bachchan Lal Paswan had filed a complaint dt. 24-7-02 with the Asstt. Labour Commissioner (C), Lucknow for regularization of his services in IBP Company Ltd. Simultaneously Engineering Mazdoor Sangh also filed an application under Section 10 of the ID Act, 1947 before Asstt. Labour Commissioner (C), Lucknow to espouse the case of Sri Bachchan Lal Paswan seeking the relief of regularisation of services of Sri Paswan. Opposing the application of the Trade Union opposite party has stated that Engineering Mazdoor Sangh is not connected with the Petroleum Industry and it has no membership among the employees of the IBP Co. Ltd. The conciliation proceedings were held on 20-12-02 and the same had filed a report dt. 20-12-02 was sent by the Asstt. Labour Commissioner (C), Lucknow to the appropriate Government on 26-12-02. It is admitted that Bachchan Lal Paswan was engaged as a casual labour on 17-3-97 on some VIP reference for cleaning work of plant/machinery at the Depot. And no letter of appointment was issued to him. He was engaged on consolidated monthly wages of Rs. 4250. Indian Oil Corporation had no terminal at Lucknow and it used to lift the supply of oil from IBP Co. Ltd. Depot at Amausi. The Indian Oil Corporation has constructed its own supply terminal and it does not lift the supply of oil from IBP Co. Depot. As

such the work at Amausi Depot of IBP Co. has been drastically reduced resulting into cut of expenditure of the Depot. In the circumstances the IBP Co. Ltd. has introduced a Voluntary Retirement Scheme for reduction of manpower for its permanent employees. It is admitted that vide order dt. 13-1-03 the services of Sri Bachchan Lal Paswan were discharged simplicitor. Sri Bachchan Lal Paswan has been paid an amount of Rs. 18,770 towards one month notice wages, compensation @ 15 days for every completed year of service and wages for the period 1-1-03 to 15-1-03. Copy of termination order was received by Sri Paswan on 15-1-03. Sri Paswan preferred an application under section 2A of the ID Act before the Asstt. Labour Commissioner (C), Lucknow seeking direction to the employer to take him back in service and if the employer was not ready to take him back in services, then recommended the Government to refer the dispute for proper adjudication before the competent court of law. The said application was sent by the Asstt. Labour Commissioner (C), Lucknow to the IBP Co. Ltd. vide covering letter dt. 24-1-03 for attending the conciliation proceedings. The IBP Co. Ltd. filed objection to the application of Sri Paswan before the Asstt. Labour Commissioner (C), Lucknow. While the proceedings were pending before the Asstt. Labour Commissioner (C), Lucknow. Sri Bachchan Lal Paswan filed a writ petition No. 1770 (S/S) of 2003, Bachchan Lal Paswan Vs General Manager, IBP Co. Ltd. and others before the Lucknow Bench of Hon'ble High Court by concealing and suppressing the material fact about the proceedings pending before the Asstt. Labour Commissioner (C), Lucknow and without furnishing a copy of the writ petition upon the counsel of the IBP Co. Ltd. despite receiving the caveat. Vide interim order dt. 28-3-03 the Hon'ble High Court admitted the writ petition and stayed the operation of the order of termination dt. 13-1-03. On 27-3-03 Sri Bachchan Lal Paswan has replied to the objections of the IBP Co. Ltd. before the Asstt. Labour Commissioner (C), Lucknow. On receiving the copy of the interim order dt. 28-3-03 efforts were made by the IBP Co. to get the stay order vacated by filing the application for vacation of interim order supported with a counter affidavit. The Hon'ble High Court on 31-7-03 dismissed the writ petition No. 1770(S/S) of 2003, since Sri Paswan had concealed material facts in the writ petition and had also not served copy of the writ petition upon IBP Co. Ltd. despite the service of caveat. It is further submitted that Amausi Depot of the IBP Co. Ltd., no workman has been employed after the termination of services of Sri Paswan and there is no person junior to Sri Paswan working at Amausi Depot of IBP Co., Ltd. There is no vacant post of permanent workman at Amausi Depot of IBP Co. Ltd. Sri Paswan has already been terminated hence the above reference relating to regularisation of services of Sri Bachchan Lal Paswan is infructuous and he is not entitled for any relief under the aforesaid reference.

Opposite party has filed the photo copy of documents alongwith list C-16;

1. Photo stat copy of complaint dt. 24-7-02 of B. L. Paswan.
2. Photo stat copy of application under Section 10 of ID Act filed by Engineering Mazdoor Sangh.
3. Photo copy of reply to the application under section 10 of the Act filed by employer.
4. Photo copy of letter dt. 26-12-02 sent by the Asstt. Labour Commissioner (C) Lucknow to the appropriate Government.
5. Photo copy of Thruput of Petroleum Product for the month of Dec. 2002.
6. Photo copy of Thruput of Petroleum Product for the month of Jan., 2003.
7. Photo copy of Trupt of Petroleum Product for the month of Feb., 2003.
8. Photo copy of the order of termination of service dt. 3-1-2003.
9. Photo copy application under Section ID Act preferred by BL Paswan.
10. Photo copy of objection to the application under Section 2A of ID Act, preferred by the Employer.
11. Photo copy of interim order dt. 28-3-03 passed in W.P. No. 1770(S/S) of 2003 preferred by Paswan.
12. Photo copy of reply to the objection preferred by Paswan.
13. Photo Copy of the judgement dt. 31-7-03 passed in W.P. No. 1770 (S/S) of 2003.
14. Photo copy of permanent workman working in Amusi Depot of IBP Co. Ltd.
15. Photo copy of the judgment dt. 23-10-03 passed in W.P. No. 1175(S/S) of 2003.

The trade union has filed rejoinder. It is admitted that workman was not given appointment letter at the relevant time of his appointment. The trade union has denied that there is voluntary retirement Scheme as stated by the employer. This is admitted that the employers have terminated the services of the workman on 15-1-03. However, trade union has submitted that services of the workman were terminated due to reason that he challenged the action of the management in not regularising the services of the workman. Further, it would not but of place to mention here that no doubt the management had paid an amount of Rs. 18770 through cheque which was attached with the aforesaid letter but since the workman has challenged the action of the management as such the same was returned to the employers vide registered letter dt. 6-5-03. It is also submitted that writ petition has been dismissed by the

Hon'ble High Court as such there is no relevancy of the interim order and present dispute.

By filing additional written statement the opposite party and stated that the workman can not claim the relief of regularisation of service as there are no rules in IBP Co. Ltd. for regularisation of daily wager.

Sri Bachchan Lal Paswan has filed affidavit who has been cross-examined by the opposite party where and opposite party has filed the affidavit of Sri AP Rao, Sr. Terminal Manager, IBP Co. Ltd. Amausi Depot Lucknow.

The Government of India also referred the following dispute vide reference order No. L-30012/21/2003-IR (Misc.) dt. 3-12-03 for adjudication :

"Whether the action of the management of IBP Co. Ltd. Amausi Lucknow in terminating the services of Sri Bachchan Lal Paswan S/o Sri Chandraman Paswan casual Depot Pump Operator w.e.f. 15-1-2003 is proper and justified? If not, to what relief the workman concerned is entitled?"

The above reference order is registered as ID No. 1/2004 between Sri Bachchan Lal Paswan Vs. General Manager IBP Co. Ltd. Lucknow.

On the request of representative of the worker on 7-7-05 the cross-examination of the opposite party has been written on the back of the affidavit of Sri A.P. Rao filed in I.D. Case No. 1/04 above. Several dates were fixed for the argument from 15-12-05 but opposite party did not appear to forward his arguments.

Heard learned representative of the trade union alone and perused evidence on record and the one available of I.D. No. 1/04 stated above.

Sri Paswan the worker has admitted in the cross-examination that he was not given any appointment letter and has admitted that he was not in the list of permanent workers. He has also admitted in his cross-examination that he was engaged for misc. work and also stated that he was asked to operate pump. He has also admitted in his cross-examination that none of his juniors are working with the employer.

The witness of workman has been cross examined the representative of trade union and he has stated where ever need of work arose, then the workman was engaged. He has also stated that work of regular worker is defined where as the work of the casual labour which is different from the regular worker is taken from the casual labour, who use to assist regular worker. During the cross-examination Sri Rao has also stated that the work is reduced considerably as Indian Oil Corpn. has established his terminal.

In the absence of any appointment letter by the worker from the nature of work came on record, it is proved that worker was engaged as casual labour 17-3-97 and not as Pump Operator. Worker has claimed for regularization in

the service. Worker has not stated as to under what scheme of the employer he claims his regularisation. During the course of argument also the representative of the trade union has not stated that there exist any statutory rule of the employer which entitled the worker for regularization. The representative of the worker has drawn my attention to the 5th Schedule of I.D. Act, 1947 Sl. No. 10 which is as under :

10. To employ workmen as "badlis", casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges or permanent workmen.

The question as to whether there are any rule for regularization of casual labour in the opposite party. In case there is, no regularization scheme has the worker can claim for regularization but in the instant case since there are no rules of regularization of casual labour therefore it can not be a case of unfair labour practice. I have gone through the judgement of Hon'ble Supreme Court (2006) 4 Supreme Court cases 1 of 5 Hon'ble judges Secretary State of Karnataka and other Vs. Uma Devi and others.

It is true that Central Government controlled industry are run by economic consideration and financial implications. In the instant case the worker according to the opposite party was engaged on the reference of some VIP for cleaning work of plant and machinery at the Depot. However, the opposite party has failed to mention the name of VIP. But certainly his engagement has not been done as per prescribed procedure and it is proved that the worker wants to seek back door entry in the opposite party by filing the case of regularisation. Sri Rao has also stated that there is no vacant post of workmen in IBP Co. Ltd. and certificate to this fact is annexure 13 to the affidavit. Sri Rao has also stated in affidavit that earlier Indian Oil Corporation had no terminal at Lucknow and it used to lift the supply of oil from IBP Co. Ltd. Depot at Amausi. The Indian oil Corporation has constructed its own supply terminal and it does not lift the supply of oil from IBP Co. Depot. As such work at Amausi Depot of IBP Co. Ltd. has been reduced, resulting into cut of expenditure of the Depot. True copies of thuput of petroleum product for the month of December 2002, January 2003, February 2003 has been filed with the affidavit annexure 1 to 3 which shows the falling trend. I fail to understand as to in the circumstances now the employer could be asked to be over burden with the regular employees when the work is considerably decreasing.

Since I.D. 1/2004 of Sri Bachchan Lal Paswan and IBP Co. Ltd. is still pending for award which pertains to terminated of the worker therefore the legality and illegality of termination is not to be looked into the present case.

It is not case of the worker that any of juniors casual labour have been regularised. It is not case of the trade union that there exists any scheme of regularization with

the opposite party. No law has been shown by the opposite party which entitles him to claim for regularization. In the circumstances the action of the management in not regularizing the worker neither illegal nor improper. The issue is therefore decided in favour of the management and against the trade union with the result the worker is not entitled to the regularization as claimed by the trade union.

Lucknow

4-5-07

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 24 मई, 2007

का. आ. 1812.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दामोदर सिमेन्ट एवं स्लैग लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 20/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-2007 को प्राप्त हुआ था।

[सं. एल-29011/4/96-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 24th May, 2007

S. O. 1812.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 20/1996) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Damodar Cement & Slag Ltd. and their workman, which was received by the Central Government on 24-5-2007.

[No. L-29011/4/96-IR(M)]

N. S. BORA, Desk Officer

ANNEXURE

BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Sri Md. Sarfaraz Khan, Presiding Officer

Reference No. 20 of 1996

PARTIES : The Manager, Damodar Cement & Slag Ltd., Madhukunda, Purulia

Vrs.

The Asstt. Secretary, Damodar Cement & Slag Ltd., Wokus' Union Madhukunda, Purulia

REPRESENTATIVES:

For the management : Sri P.K. Das, Advocate

For the union (Workman) : Sri M. Mukherjee, Advocate

Industry : Cement, State : West Bengal

Dated the 18-4-2007

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour *vide* its letter No. L-29011/4/96-IR(Misc.) dated 31-5-1996 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Damodar Cement & Slag Ltd. in denying the payment of bonus from the accounting year 1982-83 to the employees of Damodar Cement & Slag Ltd, is justified? If not to what relief the employees/workers are entitled?”

On having received the Order No. L-29011/4/96-IR(Misc.) dated 31-5-96 from the Government of India Ministry of Labour, New Delhi, for adjudication of the dispute, a reference case No. 20 of 1996 was registered on 12-6-96 and accordingly an order to that effect was passed to issue notices to the respective parties through the registered post directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. Pursuant to the said order notices by the registered post were issued to the respective parties. Sri M. Mukherjee, Advocate and Sri P.K. Das, Advocate appeared in the Court to represent the union and the Management respectively. Both the parties filed their written statement in support of their case.

From the perusal of the record it transpires that the reference was fixed for final hearing on 18-4-07. The learned lawyer for the management is present. The reference was taken up for hearing. The learned lawyer for the union submitted that he has got no instruction from the said union since long time. So he is not in a position to proceed with the case further.

In the aforesaid facts and circumstance of the case it is not just and proper to keep the record pending any more. The court can't go on adjourning the date after date in anticipation of the appearance of the union or the workman for giving any instruction to the lawyer. The record is pretty old one. Neither the union nor the workmen are interested to proceed further with the record. As such it is hereby.

ORDERED

that let a “No Dispute Awarded” be and the same is passed. Send the copies of the award to the Ministry of Labour for information and needful. The reference is accordingly disposed of.

M. D. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 24 मई, 2007

का. आ. 1813.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई. ओ. सी.

एल. पी. जी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या आई डी. 378/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-2007 को प्राप्त हुआ था।

[सं. एल-30011/38/2004-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 24th May, 2007

S. O. 1813.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. I.D. 378/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of I.O.C. L.P.G. and their workman, which was received by the Central Government on 24-5-2007.

[No. L-30011/38/2004-IR(M)]

N. S. BORA, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Monday, the 26th March, 2007

Present : K. JAYARAMAN, Presiding Officer

Industrial Dispute No. 378/2004

&

I.A. No. 1/2007 in I.D. No. 378/2004

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Indian Oil Corporation LPG bottling Plant and their workmen)

Between

The General Secretary,
Indian Oil Corporation LPG
Plant Labour Union, Salem.

: I. Party/Claimant

And

1. Shri T.K. Balachandran,
IOC LPG Bottling Plant
Handling & Housekeeping
Contractor, Salem

2. Indian Oil Corporation LPG** : II. Party/Management
Bottling Plant, Karuppur, Salem,
**Impleaded as 2nd Respondent
by this Tribunal *vide* I.A.
Order No. 231/05 dated 18-8-05

Appearance :

For the Claimant

: M/s. D. Hariparanthaman,
Advocates

For the 1st Respondent : Mr. M. R. Raghavan,
Advocate

For the 2nd Respondent : M/s. T.S. Gopalan & Co.,
Advocate

AWARD

The Central Government, Ministry of Labour, vide Order No. L-30011/38/2004-IR(M) dated 11-6-04 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned in the order is as follows :—

“Whether the action of Shri T.K.B. Balachandran, Handling & Housekeeping contractor for IOCL, LPG Bottling Plant, Salem in terminating the services of Shri V. Siddhan w.e.f. 1-4-2003 is justified? If not, to what relief the concerned workman is entitled?

2. After the receipt of the reference, it was taken on file as I.D. No. 378/2004 and notices were issued to both the parties and they have entered appearance through their advocates and, filed their Claim Statement and Counter Statement respectively. After that the Petitioner has filed a petition to implead the 2nd Respondent and it was allowed and the 2nd Respondent is impleaded as a party to this dispute.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:

The Petitioner is a trade union registered under Trade Unions Act, 1926 and it is the only union representing all the contract workmen employed in LPG plant of 2nd Respondent at Salem and the 1st Respondent is a contractor in Handling & Housekeeping in LPG Plant at Salem under 2nd Respondent. The 1st Respondent namely contractor has retired Mr. V. Siddhan, a workman employed by him in LPG plant by an order dated 31-3-2003 w.e.f. 1-4-2003 on the ground that he reached 60 years the age of superannuation as per the PF records. The Petitioner Union sent a letter dated 10-4-03 to the Factory Manager of 2nd Respondent and also 1st Respondent namely contractor stating that the date of birth of Sri V. Siddhan as per nomination and declaration submitted on 31-10-06 under P.F. Act is 1950 and as per another declaration submitted on 16-4-01, the date of birth is 10-11-1952 and therefore, the Petitioner Union requested the Respondent to reinstate Sri V. Siddhan into service with all benefits as he did not reach 60 years. Since there was no reply, the Petitioner union raised the industrial dispute regarding non-employment of Sri V. Siddhan before Assistant Labour Commissioner (Central), Chennai and he advised in conciliation talks that the 1st Respondent should arrange to get medical certificate as to the age of Mr. Siddhan through Govt. Doctor at Salem and also requested that he should be reinstated in service if he is not 60 years as per the certificate. Since the 1st Respondent did not take any steps in this regard, the Petitioner union got Mr. Siddhan examined by a Govt. Doctor and obtained medical certificate in which it is stated

that his age is only 55 years on that date. Since the conciliation ended in failure, the matter was referred to this Tribunal. It is contended that as per Clause 12 of Annexure B of Settlement dated 5.3.03 under section 12(3) of I.D. Act, the age of superannuation of workman employed by 1st Respondent is 60 years and the age recorded in PF records will be taken for this purpose. Hence, the order dated 31-3-2003 retiring the concerned employee Sri Siddhan from 1-4-2003 is violative of the said settlement. Further, there are two ages as per PF records, at one place there is no mention of date of birth and it is recorded as 1950 as the year of birth. In another place of PF records, it is mentioned as 10-11-1952. Since the later record is specific with date and month apart from year of birth of Mr. Siddhan, it should be taken as the date of birth of the concerned employee. Further, the benefit of doubt in favour of workman should be given, if any doubt arises. Since the action of the 1st Respondent amounts to retrenchment under section 2(00) of the I.D. Act and since the mandatory conditions prescribed under section 25F of the I.D. Act were not complied the termination is void ab initio. Therefore, the Petitioner union prays to pass an award in favour of the concerned employee.

4. As against this, the 1st Respondent in its Counter Statement contended that he had taken the contract of handling & house keeping works at LPG bottling plant of IOC at Salem through work order No. SBP/HAC/2002-03 dated 31-7-2002 for the period from 31-7-02 to 31-7-03 for the period of one year and he had engaged 52 contract workmen out of 72. The contract workmen who are available at site and whichever contractor takes up the job will have to engage these contract workmen only and these contract workmen are engaged on daily wages on rotation basis and these workmen were not brought by the 1st Respondent. The age of superannuation of these contract workman is 60 years. The concerned employee namely Mr. V. Siddhan since completed 60 years of age, he was informed that his period of employment had come to an end and he was further informed that his age was reckoned on the basis of PF records. In the meantime, the 2nd Respondent has informed the 1st Respondent that the work order placed on him would be pre-closed on 31.5.2003. The work order came to a close two months prior to the appointed date. Thus, the 1st Respondent ceased to be the contractor. Subsequent to superannuation, the Petitioner union has raised an industrial dispute before Assistant Labour Commissioner (Central) on the ground that Sri V. Siddhan had not completed 60 years of age and his termination was Wrongful. In the mean time, the 1st Respondent addressed a communication dated 26.9.2003 and 15.10.03 to the Dean, Govt. Hospital, Salem and requested them to ascertain the age of the concerned employee Sri V. Siddhan on the basis of medical examination. In the mean time, the dispute raised by the concerned employee was taken on file and on failure of conciliation, the matter was referred to this Tribunal for adjudication.

The age of concerned employee as 60 years was determined on the basis of P.F. records. Hence the dispute raised alleging termination is not valid in law. The 1st Respondent's contract made to be closed w.e.f. 31-5-2004 and therefore, the 1st Respondent cannot be made liable to answer the claim of the Petitioner. Further, the 1st Respondent cannot also be termed as an 'industry' in order that valid claim could be made against him before this Tribunal. The allegation that the concerned employee is only 55 years is incorrect. The order retiring the Petitioner on 31-3-2003 is not violative of settlement dated 5-3-2003. It cannot be said that the action of the 1st Respondent amounts to victimisation and malafide. Therefore, the 1st Respondent prays that claim may be dismissed.

5. In the Counter Statement, the 2nd Respondent contended that this Respondent is covered under Contract Labour (Regulation & Abolition) Act. The 1st Respondent was one of the licenced contractors and he ceased to be a contractor after the expiry of contract period during which Mr. Siddhan was employed. The 2nd Respondent not being the employer of Mr. Siddhan, 2nd Respondent is not answerable to the claim of the Petitioner. Even if for any reason, the action of the 1st Respondent in retiring the concerned employee Sri V. Siddhan is found to be not justified or that he is entitled to any relief, the liability of 2nd Respondent cannot extend beyond the period of contract that it had entered into with the 1st Respondent. Therefore, neither the 1st Respondent nor the 2nd Respondent is answerable to the claim of the concerned employee after the period of contract. Hence, the 2nd Respondent prays that the claim may be dismissed with costs.

6. In these circumstances, the points for my consideration are—

- (i) "Whether the action of the 1st Respondent in terminating the services of Sri V. Siddhan w.e.f. 1-4-2003 is justified ?
- (ii) To what relief the concerned workman is entitled?"

Point No. 1:

7. The admitted case of the Petitioner and the Respondent is the concerned employee namely Sri Siddhan is a contract labour employed under the 2nd Respondent through the 1st Respondent and the 1st Respondent through his order dated 31-3-2003 has retired the concerned employee with effect from 1-4-2003 on the ground that he reached 60 years namely the age of superannuation as per Provident Fund records.

8. On behalf of the Petitioner, it is contended that the concerned employee namely Sri V. Siddhan has not completed the age of 60 years and his date of birth is only 10-11-1952 and therefore the Petitioner union requested the Respondent to reinstate the concerned employee into service with all benefits. As against this, the 1st Res-

pondent contended that he had taken the contract of Handling & House keeping works of 2nd Respondent/Management through a work order dated 31-7-2002 for a period of one year and the 2nd Respondent subsequently, informed him that the work order placed on him would be pre-closed on 31-5-2003 and even his contract had come to a close with effect from 31-5-2004. It is his further contention that the concerned employee has been superannuated on completion of 60 years and the age of 60 years was determined on the basis of P.F. records. Therefore, the termination is valid in law. It is also further contended that the 1st Respondent cannot be termed as 'industry' in order that a valid claim could be made against him before this Tribunal. Though the 1st Respondent has addressed a communication dated 26-9-2003 and 15-10-2003 to the Dean, Government Hospital, Salem and requested them to ascertain the age of the concerned employee on the basis of medical examination, the Petitioner union has taken up the matter before Assistant Labour Commissioner (Central) and the matter was referred to this Tribunal and in no way, he is responsible for the grievance of the Petitioner union.

9. The 2nd Respondent, in turn contended that he is the principal employer and therefore, he is not responsible for the grievance alleged by the Petitioner union and since the 2nd Respondent not being an employer of the concerned employee, the 2nd Respondent is not answerable to the claim of the Petitioner. Even if, for any reason the action of the 1st Respondent in retiring the concerned employee is found to be not justified or that he is entitled to any relief, the liability of the 2nd Respondent cannot be extended beyond the period of contract that it had entered into with the 1st Respondent and therefore, he alleged that he is not liable for any relief in this dispute.

10. In this case, the General Secretary of the Petitioner union was examined as WW 1 and 9 documents were marked on the side of the Petitioner. As against this, 1st Respondent examined himself as MW 1 and filled documents which are marked as Ex. M1 to M4. Ex. W1 is the copy of 12 (3) settlement entered into between the Petitioner and the Respondent/Management dated 5-3-2003. Ex. W2 is the copy of the letter sent by Petitioner union to the Factory Manager of the 2nd Respondent dated 10-4-2003. EX. W3 is the copy of dispute raised by the Petitioner union before Assistant Labour Commissioner (Central). EX. W4 is the copy of complaint made by Petitioner union before Assistant Labour Commissioner (Central). Ex. W5 is the copy of letter sent by Petitioner union to Manager of LPG Plant of 2nd Respondent. Ex. W6 is the copy of failure report submitted by Assistant Labour Commissioner (Central). Ex. W7 is the copy of nomination and declaration form given by concerned employee dated 30-10-1996 under P.F. scheme. Ex. W8 is the copy of nomination and declaration form given by concerned employee dated 16-4-2001. EX. W9 is the copy of medical certificate given by the Doctor at Salem Hospital dated 1-10-2003.

11. On the side of the Respondent, first document filed by the Respondent is copy of Form No. 9 under Employees Provident Fund Scheme, 1952, which contains the names of workmen and also date of birth which is given/maintained by 2nd Respondent. EX. M2 is the copy of letter sent by 1st Respondent to the Hospital at Salem dated 26-9-2003. EX. M3 is the copy of another letter sent by 1st Respondent to Hospital at Salem dated 15-10-2003. EX. M4 is the copy of proof of delivery of the said letter.

12. Learned counsel for the Petitioner contended that there are two ages as per provident fund records and at one place in declaration, there is no mention of date of birth and only the year of birth recorded as 1950 and in another declaration of P.F. records, it is mentioned as 10-11-1952. As against this, though the Respondent produced Form 9, in which entry No. 93 which relates to the concerned employee Sri V. Siddhan, it is mentioned as 3-1-1942 as date of birth. The Respondent has not produced any evidence to show how the date of birth mentioned in Ex. M1 was recorded and there is no signature of the concerned employee nor there is any proof to show that this date of birth is the real date of birth of the concerned employee. As against this, copy of declaration given by the concerned employee to the P.F. records shows two ages. Since the later record namely declaration given in the year 2001 is specific with the date and month apart from the year of concerned employee's name which should be taken as date of birth of Sri V. Siddhan. Further, the benefit of doubt in favour of workmen should be given, if any doubt arises. Hence, the date of birth of Sri V. Siddhan must be taken as 10-11-1952 by this Tribunal and the relief must be granted to the concerned employee.

13. But, as against this, the 1st Respondent contended that though he has taken the contract for handling and house keeping works in the contract, the work has to be executed by engaging a contract workmen, who are available at the site and further whichever contractor takes up the job will have to engage these contract workmen only. Further, though he has taken the said contract of handling & house keeping work, the said contract was ended on 31-5-2004 and therefore, he cannot be made liable to answer the claim of the concerned employee. It is his further contention that the 1st Respondent cannot be termed as "industry" in order that a valid claim could be made against him before this Tribunal. The 1st Respondent further contended that the age of the concerned employee was determined on the basis of P.F. records namely Ex. M1 and therefore, the termination is valid in law. But, it is not stated as to how the date of birth mentioned in Ex. M1 has arrived at and he has not established before this Tribunal from which record the date of birth mentioned in Ex. M1 was entered into. As such, I find there is no valid contention made by the 1st Respondent with regard to the date of birth mentioned in Ex. M1.

14. On the other hand, the concerned employee has produced declaration under P.F. scheme namely Ex. W7

and W8, in which in Ex. W7 it is mentioned only the year of birth as 1950 and in Ex. W8 the date of birth was clearly given by the concerned employee and he has signed this declaration. Though there is no proof to show how this date of birth was given by the concerned employee and there is no substantial evidence to establish that the date of birth mentioned in Ex. W2 alone is correct, I find in this case we have to see whether the order of termination given by the 1st Respondent on the ground that he was superannuated namely he has reached 60 years is correct or not.

15. In this case, since the employer namely the 1st respondent has not established how he has come to the conclusion that the concerned employee has reached sixty years without any proof, I find the order of terminating the services of concerned employee namely Sri V. Siddhan by the 1st Respondent is not justified.

The next thing to be decided in this case what is the age of concerned employee at the relevant period?

16. Though on the side of the Petitioner Ex. W9 namely certificate given by the Doctor at Salem produced before this Tribunal, the said certificate was given only on the appearance of the concerned employee and also on his own showing namely the concerned employee. Here again, there is no proof how the Doctor has come to the opinion that the Petitioner is only 55 years during the relevant period. Therefore, I am not inclined to accept the contention that the concerned employee has completed only 55 years during the relevant period. But, in his own admission, the Petitioner has made that his date of birth as 10-11-1952 as per Ex. W2. Out of these documents, we can take the date of birth as 10-11-1952 because the benefit of doubt should be given in favour of the workman, if any doubt arises with regard to his age. Therefore, I take the date of birth of Sri V. Siddhan as 10-11-1952 and I find the order of termination made by the 1st Respondent dated 1-4-2003 is not justified.

17. Then agarian, learned counsel for the 1st Respondent contended that the 1st Respondent cannot be termed as "industry" in order that valid claim should be made against the 1st Respondent before this Tribunal.

18. But, I find there is no point in the contention of the learned counsel for the 1st Respondent because, it is not disputed that 1st Respondent contractor carried on the business from his own business premises or that he was drawing commission on the basis of contract agreement with the 2nd Respondent. Therefore, I find no doubt that the 1st Respondent can also be said to be an establishment and is responsible for the payment of wages to the concerned employee.

19. Then again, on behalf of the 2nd Respondent it is contended that even if for any reason, the action of the 1st Respondent in retiring the concerned employee

Sh. V. Siddhan is found to be not justified or he is entitled to any relief, the liability of 2nd Respondent cannot be extended beyond the period of contract it had entered into with the 1st Respondent.

20. I find some force in the contention of the 2nd Respondent because it is admitted by the Petitioner and also by the 1st Respondent that his contract with the 2nd Respondent ended on 31-5-2004. Beyond this period, we cannot ask the 1st Respondent to pay the wages to the contract labour because the contract has admittedly ended on 31-5-2004. Therefore, I find this point that the action of the 1st Respondent namely the Contractor for the 2nd Respondent LPG Bottling Plant in terminating the services of the concerned employee with effect from 1-4-2003 is not justified and he is liable to pay wages upto 31-5-2004.

21. In view of the above findings, IA. No. 1/2007 filed by the Petitioner for issue of summons is dismissed as infructuous.

Point No. 2 :

23. The next point to be decided in this case is to what relief the concerned employee is entitled?

22. In view of my foregoing findings, the 1st Respondent is liable to pay wages to the concerned employee upto 31-5-2004 as per the contract entered into under Ex. W1. In case, if the 1st Respondent fails to pay the said wages to the concerned employee, the principal employer namely the 2nd Respondent/Management is bound to pay the same, No Costs.

23. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 26th March, 2007.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

For the Claimant : WW1 Sri C. Ramakrishnan

For the Respondent MW1 Sri T. K. Balachandran

Documents Marked :

For the I Party/Petitioner:

Ex.No.	Date	Description
W1	5-3-03	Xerox copy of the 12(3) settlement entered into Between 1st Respondent and 2nd Respondent
W2	10-4-03	Xerox copy of the letter sent by Petitioner to Factory Manager of LPG Plant
W3	13-5-03	Xerox copy of the dispute raised by Petitioner before Assistant Labour Commissioner (Central)

W4	18-9-03	Xerox copy of the complaint made by Petitioner Before Assistant Labour Commissioner (Central)
W5	6-10-03	Xerox copy of the letter sent by Petitioner to the Manager of LPG plant
W6	23-3-04	Xerox copy of the failure of conciliation report
W7	30-10-96	Xerox copy of the nomination & declaration form
W8	16-4-01	Xerox copy of the nomination & declaration form
W9	1-10-03	Xerox copy of the medical certificate

For the II Party/Management :

Ex.No.	Date	Description
M1	Nil	Xerox copy of the Form 9 under the The Employees Provident Fund Scheme, 1952
M2	26-9-03	Xerox copy of the letter from 1st Respondent to Salem Hospital
M3	15-10-03	Xerox copy of the letter from 1st Respondent to Salem Hospital
M4	Nil	Xerox copy of the proof of delivery

नई दिल्ली, 24 मई, 2007

का. आ. 1814.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार साऊथ इंडिया माईन्स और मिनरल इंडस्ट्रीज लिमिटेड के प्रबंधन के संबंध में उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या आई डी. 38/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-2007 को प्राप्त हुआ था।

[सं. एल-29012/16/2005-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 24th May, 2007

S. O. 1814.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. I.D. 38/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of South India Mines & Minerals Ind. Ltd. and their workmen, which was received by the Central Government on 24-5-2007.

[No. L-29012/16/2005-IR(M)]

N. S. BORA, Desk Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI

Thursday, the 29th March, 2007

PRESENT: K. JAYARAMAN, Presiding Officer
Industrial Dispute No. 38/2005

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Act, 1947 (14 of 1947), between the Management of the South India Mines & Minerals Ind. Ltd. and their workmen)

BETWEEN

Shri K. S. Uthandaraman : I Party/Petitioner

And

The Executive Director, : II. Party/Management
 The South India Mines &
 Minerals Ind. Ltd.
 Sankar Nagar, Tirunelveli.

APPEARANCE:

For the Petitioner : M/s. Row & Reddy,
 Advocates

For the Management : Mr. S. Sadagopan
 Advocate

AWARD

The Central Government, Ministry of Labour, vide Order No. L-29012/16/2005-IR(M) dated 6-4-2005 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned in the order is as follows : —

“Whether the claim of Sri K.S. Uthandaraman for reinstatement with back wages and continuity of service against the management of South India Mines & Mineral Industries Ltd. (SIMMINDS), Sankar Nagar, Tirunelveli is legal and justified? If not, to what relief the workman is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D.No.38/2005 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:

The Petitioner was appointed by Agricultural farms Ltd., Sankar Nagar as per order dated 20-08-77 as clerical assistant on probation for a period of one year and he joined the duty on 2.9.1977 and was confirmed as a Senior Clerk as per order dated, 1-9-78. The Agricultural Farms Ltd. subsequently changed as the South India Mines & Mineral Industries Ltd. The Petitioner was transferred to various posts and served in that concern and to suit the

convenience of the Respondent, the Respondent has redesignated the Petitioner for several times, though he had worked in clerical job. He was not provided with power of appointment, power to take disciplinary action and power of dismissal. He was only a workman as per Section 2(s) of the I.D. Act. The primary and basic duties and dominant purpose of employment must be taken into consideration and the designation given to the Petitioner is not a decisive one and the Petitioner has worked in clerical job maintaining and writing accounts only. The appointing authority of the Respondent/Management is only Managing Director and as per Memorandum of Articles of Association, the Managing Director alone has got power to pass final orders. The Executive Director has no power to pass final order and this power cannot be delegated and no resolution was passed before passing final order in this case. While so, the Executive Director of the Respondent has passed an order dated 25-2-2004 stating that the Petitioner is no longer required. Even this order of Executive Director is illegal, void, ab initio. The Respondent/Management is an industry / factory as per standing orders and the Executive Director is not an employer and has no power to pass such final order. The Respondent is doing business in limestone cum mines, and as per Section 17 of Mines Act, only person having prescribed qualification can be appointed as Manager. The Petitioner is not a competent person as prescribed in Mines Act and cannot be appointed as AGM (mines) or any other statutory post. Hence the various orders passed by Executive Director of Respondent are all in utter violation of Mines Act and they are unenforceable in law. At the time of redesignation, no agreement regarding terms and conditions were fixed and the Petitioner had been doing accounts clerical job and pinpointed the serious irregularities of Sri R. Rajagopal, Executive Director. In order to victimize the Petitioner, the said person has passed various orders within a short span of period from 21-6-2001 to 30-09-2003 and he has passed the orders in violation of principles of natural justice. Before issuing the final order dated 25.2.2004, the Respondent had not issued any charge sheet. No domestic enquiry was conducted observing principles of natural justice. No compensation as per Section 25F of the ID. Act was provided. Hence, the order passed by the Respondent/Management is in violation of section 25F of the I.D. Act. Hence, the Petitioner raised a dispute before the labour authorities and since the conciliation ended in failure, the Government has referred this dispute for adjudication. Hence, for all these reasons, the Petitioner, prays this Tribunal to pass an award directing the Respondent to, reinstate him in service with continuity of service and all other attendant benefits.

4. As against this, the Respondent in its Counter Statement alleged that this claim is not maintainable. The Petitioner is a qualified person with B.Sc., (Maths) B. Ed(Maths) and also lower grade in Accountancy. Though he entered the service of Respondent in clerical

cadre in the year 1977, subsequently, he was designated as an officer namely Deputy Accountant as early as from 1-1-87. Then he was redesignated as Manager (Accounts) and placed in managerial Scale III w.e.f. 1-6-94 and he was also entitled for reimbursement of conveyance bills and also LTA of Rs. 3500 which are fringe benefits and not applicable to workman of the Respondent/Management. Even in the year 2000 the Board of Directors of the company passed a resolution on 26-6-2000 authorising the Petitioner among two others to operate the accounts with Karur Vysya Bank Ltd. Palayamkottai and to be an authorised signatory for various financial transactions on behalf of the company. Subsequently, he was redesignated as Senior Manager (Finance & Accounts) w.e.f. 6-6-2001 with total salary of Rs. 16,730. Further his post was redesignated as Senior Manager (Personnel & Admn.) w.e.f. 12-11-2001. Even on 30-9-2003 the Executive Director of the Respondent issued orders specifying the duties and responsibilities of the Petitioner as AGM. From all these things, it is clear that the Petitioner cannot be considered as a workman under Section 2(s) of the I.D. Act. Further, the Petitioner had exercised powers in supervisory capacity and controlled the subordinate staff in Ramayanpatti quarry. Again the Petitioner was redesignated as Assistant General Manager (Personnel & Mines Admn.) w.e.f. 1-4-2003 and in that order itself the duties and responsibilities have been specified and he was also permitted to get reimbursement of telephone charges upto Rs.1000/ bimonthly w.e.f. 1-4-2003. He has also circulated office orders with his initial among the staff under his control. Further, the Petitioner was asked to call for explanation from workers regarding long absenteeism. Thus, from all these documents, it is clear that he has exercised managerial functions and not worked as a clerical staff as alleged by him. He was discharged from his duties w.e.f. 25-2-2004 as per the terms and conditions governing him and he was also paid one month salary of Rs.17, 973 by means of cheque and he had encashed the same. Since he is not a workman as per I.D. Act this claim is not maintainable. It is also pertinent to note that the Central Government Ministry of Labour issued the order of reference dated 6-4-2005 referring the dispute for adjudication to this Tribunal, but, on the other hand, the conciliation officer has sent the failure report only on 31-5-2005. Therefore, the reference itself is not as per provisions of I.D. Act. The Petitioner has received Rs. 17,973 as salary and he having drawn such high salary, cannot claim the status of workman. Since the Petitioner is not entitled to the protection under I.D. Act, this petition is not maintainable and prays that the claim may be dismissed with costs.

5. Again, the Petitioner in its rejoinder contended that the status of Petitioner as workman has already been upheld in the reference itself and this Court had to adjudicate the claim of reinstatement with back wages and continuity of service alone. The Respondent/Management

redesignated the Petitioner's job for several times and thus, they wanted to keep the Petitioner away from doing his usual clerical/accounts work involving financial transaction of which less said is better in view of the irregularities committed by the Respondent and pinpointed by the Petitioner. It is wrong to contend that the Petitioner had exercised supervision and control over his subordinate staff and he was not empowered to initiate disciplinary action against any erring staff. Duties listed in order dated 1-4-2003 were handled by specific competent persons appointed for that purpose under various acts and rules. He has performed only his job of clerical nature. Telephone charge reimbursement was one of the beneficiaries and that will not presume that the Petitioner has exercised supervisory nature of work. Circulation of office order is not a supervisory nature of work. The Petitioner did not possess any technical qualification in mining. The assignments made by the Respondent/Management to the Petitioner require technical knowledge and understanding of various aspects of competent person in mining. Such posts were redesignated to the Petitioner with an ulterior motive to dismiss the Petitioner from service. The minimum wages as per Cement Wage Board fixed in Respondent is Rs.8000 per month. Hence, the monthly wages of Rs. 17, 973 had no relevance at all in deciding the issue. Further mere endorsement in leave application will not prove the supervisory nature of work. The Petitioner was not authorised to sanction leave to any staff. The final order was passed as per service conditions dated 20-8-77, which is for clerical job and there was no other service conditions issued to the Petitioner. Mere nomenclature of designation will not prove the supervisory nature. Hence, for all these reasons, the Petitioner prays that an award may be passed in his favour.

6. In these circumstances, the points for my consideration are :—

- (i) "Whether the Petitioner's claim for reinstatement with back wages and continuity of service against the Respondent/Management is legal and justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point:—

7. In this case, it is an admitted fact that the Petitioner was appointed as a clerical assistant on 20-8-77 on probation and he was subsequently, confirmed as Senior Clerk and his salary was periodically revised by the Respondent/Management formerly known as Agricultural Farms Ltd. and he was transferred to various posts. But the Petitioner contended that to suit their convenience, the Respondent has redesignated the Petitioner, though the Petitioner worked in clerical jobs and he has not provided with any power of appointment, power to take disciplinary action and power of dismissal and the nature of duties conferred on him will determine that he was only

a workman as per Section 2(s) of the I.D. Act. Learned counsel for the Petitioner contended that the primary and basic duties and dominant purpose of employment must be taken into consideration in determining whether the person is a workman or working in supervisory capacity and the designation given to the Petitioner is not a decisive one and he was never authorised to take independent decision with no power of command and he worked in clerical job maintaining and writing accounts only and therefore, at no stretch of imagination, he can be said he worked in Manager capacity. He relied on the rulings reported in 1999 1 CLR 1156 SUNITA B. VATSARAJ vs. KARNATAKABANK LTD. AND ANOTHER wherein the Petitioner in that case was appointed as clerk trainee in the year 1971 and after successful training she was confirmed and promoted as officer grade III in the year 1978 and she joined Bandra branch in her promotion post and worked as Branch Manager and power of attorney was executed in her favour by the bank. Thereafter, however, she was involved in disciplinary proceedings and after domestic enquiry, she was dismissed from service. She questioned the dismissal order. The Industrial Tribunal allowed the Respondent's plea and dismissed the reference. In the Writ Petition, the Bombay High Court has held that she is only a workman and as such reversed the order of the Tribunal, wherein it is stated that "*firstly, dominant purpose of the employment is relevant and not some additional duties which may be performed by the employee; secondly, it is not the designation but the nature of duty; thirdly, whether the employee can bind the company in the matter of some decisions taken on behalf of the company; fourthly, the nature of supervisory duties performed by the employee whether it includes directing the subordinates and so on.*" Considering all these factors, the High Court has come to the conclusion that the Petitioner in that case though designated as an officer as per power of attorney, was in fact, left to the situation of carrying out the work of clerical nature including the checking up of the work done by other workers in her own section and therefore, it held that Petitioner is a workman. The next decision relied on by the learned counsel for the Petitioner is reported in 2006 6 SCC 548 ANAND REGIONAL CO-OP. OILSEEDS-GROWERS' UNION LTD. Vs. SHAILESHKUMAR HARSHADBHAI SHAH wherein the Supreme Court while considering whether the person who has called as workman, it held that "*in determining the nature of work, the essence of matter should be considered and designation of the employee or the name assigned to his class should not be given undue importance. The primary duties performed by him are more important and the existence of subordinates whose work is required to be supervised is a sine qua non to prove supervisory work. An employee, incharge of a section and that too a small one in the quality control department of an oil seed growers' co-operative society, without any authority to initiate departmental proceedings against the*

subordinates and it did not fall within the scope of Section 2(s)(iv) of the Act and held the person is only a workman." Relying on these decisions learned counsel for the Petitioner contended that on 20-8-1997 appointment order was issued to the Petitioner for clerical assistant and he joined as a Clerical assistant on 2-9-77 and on 4-7-94 his post was redesignated as Manager (Accounts). Though subsequently, his post has been redesignated several times, he has done only the clerical work and though his salary was increased periodically, it cannot be said that merely because he has received high salary, he is not a workman. The redesignation of Manager (Accounts) was extended for completion of 15 years and continuing the 17th year of service to do the same clerical duties and he was not provided with any power or change in duties. The redesignation in the newly introduced scale was on account of the fact that the Petitioner was stagnating in the highest clerical grade namely VII grade in the Cement Wage Board implemented by the Respondent company and the allowances mentioned are only against the various allowances under special benefits enjoyed in VII grade extended by the company to all their workmen. Though it is contended that he has posted as Senior Manager (Personnel & Admn.) the Petitioner was not provided with any power and assigned in the order and he has not exercised the duties supervision and control over his subordinate staff and he was not empowered to initiate disciplinary action against erring staff. Though it is alleged that all the duties listed in the order dated 1-4-2003 were and are handled by specific competent persons appointed for that purpose under various acts, rules and regulations and he has performed his job only as a workman. Though it is alleged that the telephone charge reimbursement was allowed by the management, which allowance was not given to workman under the Respondent/ Management, it will not presume that the Petitioner had exercised supervisory nature of work. Even in letter dated 9-10-2003 it is explained that the Petitioner was not vested to take power to take disciplinary action against the workmen. It is admitted by MW1 himself that the Cement Wage Board fixed the wages as Rs. 8000 per month and hence, the monthly wages of Rs. 17,973 which alleged to have been received by the Petitioner has no relevance at all to decide whether the Petitioner is a workman or worked in managerial cadre. Further, the Petitioner was not authorised to sanction leave to any staff. Therefore, when the primary and basic duties and dominant purpose of employment is considered, the Petitioner has worked only in clerical cadre and therefore, mere nomenclature of designation will not prove that the Petitioner is not a workman. In this case, the Petitioner examined not only himself but also one Sri A.S. Kumar who worked as Executive Director of the Respondent Management and who has served for 16 years as Executive Director and he has stated that the Petitioner has worked as a clerk and he was doing only clerical work involving financial accounting besides material handling and other

clerical matters with specific decision making powers vested with him namely the Executive Director and the Petitioner has never worked in supervisory capacity which prove clinchingly prove that the Petitioner has worked only as a workman and not in supervisory capacity. Learned counsel for the Petitioner further contended that the General Secretary of India Cements Employees Union who was examined as WW3, has also stated that the Petitioner has worked only in clerical cadre and the Petitioner has not exercised any supervisory control in a post which involved power or authority or taking disciplinary action against the employees. Thus, the Petitioner established the fact that he has worked only in clerical cadre by producing clinching documentary evidence and also by oral evidence and therefore, this Tribunal has to come to a conclusion that the Petitioner has worked only as a workman and the Respondent/Management has dismissed the Petitioner without any rhythm and without following the mandatory provisions of Section 25F of the Act and has to reinstate the Petitioner with all benefits.

8. But, as against this learned counsel for the Respondent contended that though the Petitioner was appointed as a clerk in the Respondent/Management, subsequently, his post has been redesignated as Manager (Accounts) which is a managerial scale post. Subsequently he was employed as Assistant General Manager (Mines) under Ex. M 35 of the Respondent and he was drawing monthly salary of Rs.17, 973 at the time of discharge from service. The Petitioner's predominant duties were of managerial nature as mentioned in detail in the order. He has not worked as a common workman but he was highly qualified namely B.Sc (Maths) & B.Ed. (Maths) and lower grade in Accountancy. The Petitioner was subsequently authorised to operate a current account in Karur Vysya Bank, Tirunelveli by a Board Resolution under Ex. M 30 which act no workman can do. Subsequently, he was a Senior Manager (Finance & Accounts) with the monthly salary of Rs. 16,370 on 30-9-2003. He was redesignated as AGM (mines) and his duties and responsibilities were specified therein namely under Ex. M6, wherein it is clearly stated that his duties are ordering of explosives, supervision and distribution of explosives, checking of stock position of explosives at the magazine as and when necessary, supervision of explosives issued to contractors and proper return of unused explosives and control over the staff working in quarry and supervision of work done by staff and initiate action wherever lapses are notices and supervision of security personnel and also undertake surprise check of loads taken by contractors at frequent intervals; monitoring of leave application of mines and office staff and review of long absenteeism and initiate action wherever necessary. It can be seen from Ex. M 6 that duties assigned to him were all managerial in nature and it cannot be said that all these duties were given to workman as claimed by him. Further, from Ex. M 7 namely copy of

instructions given by the Petitioner to quarry wherein he has issued administrative instructions to Ramayanpatti limestone quarry on 9-8-02, wherein he has given instruction to staff and log boys in particular to avoid mistakes in future and he has also called for despatch particulars. Similarly, on 12-8-2002 the Petitioner had issued instructions to Manager Ramayanpatti limestone quarry and he has directed to take necessary action against the person for the lapses. From these documents, it is clear that the Petitioner has exercised managerial power as Assistant General Manager (Mines) and subsequently he was redesignated as AGM (Personnel & Mines) General Administration w.e.f. 1-4-2003 under Ex. M9 wherein specific duties were enlisted and all the duties specified therein are of managerial nature and not of a workman's duties. It is admitted that the Petitioner was reimbursed telephone charges upto the limit of Rs. 1000 bimonthly from 1-4-2003 and it can be seen that no workman was permitted to have such a privilege of reimbursement of telephone charges. It is admitted that office orders were circulated by him to subordinate staff. If really, he worked as a workman, he can only receive the circulars and not circulate the circulars. Though the Petitioner alleged that he has not exercised any control or supervision over the staff, from Ex. M 13, it is clear that the Petitioner was authorised to call for explanation from workmen for their absenteeism. Thus, he has given power to exercise control over the subordinates. From Ex. M 15 in which the Mines Manager has applied for leave for one day and the Petitioner has made a lengthy note which clearly proves that he has exercised supervisory powers over the subordinates and the Respondent has produced number of documents under Ex. M 16 series that the Petitioner has authorised to draw materials from stores and has issued slips for drawal of materials and he has also signed acquittance register only as AGM (Personnel & Admn.) and he has received total salary and paid income tax to the tune of Rs. 4000 per mensem. All these clearly prove that he has exercised powers only as managerial cadre and not worked as a workman. He has countersigned the daily report containing various details of usage of machinery, materials, fuel and lubricants, which was prepared by the clerk and which establish that he has not done any clerical duties, on the other hand, he worked only in a supervisory capacity. All these documents were admitted by Petitioner but his only contention is that he put his signature and prepared all these documents on the direction of Executive Director which he has taken only to get over the situation. Though it is alleged that Sri A. S. Krishnan, who worked as Executive Director has stated that the Petitioner has worked only as a clerk and not as a managerial capacity, the said witness has admitted that only during his period the documents under Ex. M23 to M 29 were passed by him. Even from Ex. M 23 which is an office order dated 4-7-94 issued by WW2, it is clear that the Petitioner has been redesignated as Company Manager in the newly introduced Managerial Scale III. Even after

signing this office order, he has bold enough to say that the Petitioner has worked only in a clerical cadre. In the same order, it is clearly mentioned that the Petitioner is entitled for reimbursement of conveyance bills and also leave travel allowance of Rs. 3500 which amount will not be given to a workman as allowance. From Ex. M 25, M 26, and M 27, it is clear that WW2 has consulted the Petitioner as a decision making person and he has made an endorsement to contact him for discussion and these documents relate to increase of wages with regard to workmen and four officers in managerial cadre. Thus, it is clear that the Petitioner has been consulted on policy matters. Above all, Ex. M29, which is a Memorandum of Settlement under Section 18(1) of the I.D. Act entered into between the Respondent/Management and India Cements Employees' Union with regard to revision of wages and benefits to workers, wherein the Petitioner has signed as management representative and all the three management representatives are Executive Director, Senior Manager (F & A) namely the Petitioner and Medical Officer (mines) who were all worked in managerial cadre. Further, from the leave record, it is clear that the Petitioner was entitled to 30 days annual leave while the workman is entitled to leave @ 1 day per 20 days worked. Even these circumstances will clearly show that the Petitioner has not worked as a workman but only in managerial cadre. No doubt, the Petitioner has no power of appointment or dismissal as a Manager or Assistant General Manager but merely because the Manager who has no power to appoint or dismiss a workman cannot be deemed to be said as a workman. Furthermore, under Ex. W19 it is clearly mentioned that the Petitioner had acted in the absence of Executive Director and no workman can act in the Executive Director's absence. Though it is alleged by the learned counsel for the Petitioner that the Petitioner has no power of appointment or dismissal, they wantonly burked the fact that the Petitioner has acted and has given the duties of managerial nature and he has exercised the duties as such and therefore, the Petitioner cannot be said as a workman. All these will prove that the Petitioner was not doing the job of stereo type but was engaged in various activities and therefore, he is not a workman and since he has worked only in a managerial capacity, this petition is not maintainable before this Tribunal.

9. I find much force in the contention of the Respondent because though it is alleged that the Petitioner has worked only in a clerical cadre and not as a managerial cadre, all the documents produced by the Respondent clearly show that the Petitioner has exercised the managerial duties and he has also received perquisites as per the managerial cadre.

10. Further learned counsel for the Respondent relied on the rulings reported in 1994 2 LLJ 1153 S.K. MAINI Vs. M/s. CARONA SAHU CO. LTD., & ORS., wherein the Supreme Court while considering who is a workman, has

stated that "designation of an employee is not of much importance. What is important is the nature of duties. The determinative factor is the main duties and not some work incidentally done. If the employee is mainly doing supervisory work, but incidentally or for a fraction of time also does some manual or clerical work, the employee should be held to be doing supervisory work." The next decision relied on by the counsel for the Respondent is 2004 ILR 506 TATASONS LTD. Vs. S. BANDYOPADHYAY AND ANOTHER wherein the Delhi High Court has held that "the correspondence revealed that the Respondent was highly educated namely a chartered engineer, and he was not doing any manual work as claimed by him. The nature of work clearly involved a considerable amount of mental inputs, creativity and imagination. Merely that the Respondent was required to report to a superior it would not bring him within the purview of the definition of workman.... What is importance is the nature of his duties, particularly his primary or basic duties and the dominant purpose of his employment." The next decision relied on by the counsel for the Respondent is 2004 LLR 574 C. GUPTA Vs. GLAXO SMITHKLINE PHARMACEUTICAL LTD. AND ANOTHER wherein the Bombay High Court has held that "the appellant was not a workman as his work did not fall within the first part of definition of workman under Section 2(s) of the Act and even assuming that he did fall within the first part by virtue of his work being technical, he would be excluded since his duties were mainly of managerial nature." Further, he relied on the rulings reported in 2004 LLR 612 JAIPRAKASH SINGH Vs. PRESIDING OFFICER, LABOUR COURT, KANPUR AND OTHERS in which the Allahabad High Court has held that "the Petitioner was initially appointed as dairy supervisor and promoted as Manager Grade IV and was performing managerial/supervisory functions, hence he was not a workman." Learned counsel for the Petitioner further relied on the rulings reported in 2006 3 LLJ 408 SUBIR GUHA THAKURTA Vs. JOHNSON AND JOHNSON LTD. AND OTHERS wherein the Calcutta High Court has held that "burden of proving that he is a workman, is on the employee and on facts, the person concerned is in managerial cadre and the findings of the Tribunal in favour of the employee is perverse and not sustainable." Further, he relied on the rulings in an unreported case of Madras High Court in S. NALLATHAMBI Vs. PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, CHENNAI & ANOTHER in W.P. No. 8949 of 2000 wherein the High Court while considering whether the Petitioner is a workman has held that "the Petitioner was drawing salary applicable to managerial staff and he had administrative control on the workman and had power to sanction leave for workmen and had power to pass bills and prepare estimates for civil works in the mines etc. and therefore, he is not a workman." Relying on all these decisions, learned counsel for the Respondent contended that the Petitioner was though appointed as a clerk in 1977 his post was redesignated and he was given managerial

power and which power he had exercised and hence he is not a workman.

11. I find much force in the contention of the learned counsel for the Respondent and therefore, I find the Petitioner is not a workman. Since the Petitioner is not a workman, this Tribunal has no jurisdiction to decide whether the Petitioner is entitled for reinstatement as alleged by him. As such, I find this point against the Petitioner.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled ?

12. In view of my foregoing findings that the Petitioner is not a workman and he is not entitled to the benefits of the ID Act, I find the Petitioner is not entitled to any relief. No Costs.

13. Thus, the reference is answered accordingly.

(Dictated to the PA transcribed and typed by him, corrected and pronounced by me in the open court on this day the 29th March, 2007).

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

For the I Party/Petitioner : WW1 Sri K. S. Uthandaraman
WW2 Sri A. S. Krishnan
WW3 Sri M. Yovan

For the II Party/ Management : MW1 Sri R. Rajagopal
MW2 Sri S. Padmanabhan

Documents Marked :—

For the I Party/Petitioner :—

Ex. No.	Date	Description	Ex. No.	Date	Description
W1	20-8-77	Xerox copy of the appointment order issued to Petitioner	W17	4-11-04	Xerox copy of the rejoinder filed by Petitioner.
W2	22-8-77	Xerox copy of the Letter from respondent to Petitioner	W18	13-12-04	Xerox copy of the letter from Respondent to Assistant Labour Commissioner (Central)
W3	23-7-77	Xerox copy of the Respondent to Petitioner calling for Interview	W19	31-1-05	Xerox copy of the failure of conciliation report
W4	1-9-78	Xerox copy of the officer order issued to Petitioner confirming as Senior Clerk.	W20	Nil	Xerox copy of the Chapter IV of Mines Act, 1952
W4A	23-8-05	Xerox copy of the complaint from India Cement Employees Union to Registrar of Companies, Chennai regarding Mismanagement of Respondent/Management.	W21	27-9-03	Xerox copy of the instruction note issued to Petitioner
			W22	21-10-00	Xerox copy of the instruction note issued by Respondent regarding production
			W23	22-9-00	Xerox copy of the letter from Mines Manager to DMS
W5	6-4-01	Xerox copy of the office order issued to Petitioner to proceed on leave.	W24	7-6-04	Xerox copy of the service certificate issued to Petitioner

Ex. No. Date

W6 21-6-01

Description

Xerox copy of the order of respondent posting Petitioner as Special Officer in Nellai Transports

W7 12-11-01

Xerox copy of the order issued to Petitioner Redesignating his post as Senior Manager (P & A)

W8 27-3-02

Xerox copy of the office order promoting the Petitioner as AGM

W9 12-11-02

Xerox copy of the transfer order issued to Petitioner

W10 19-11-02

Xerox copy of the office order issued to Petitioner

W11 1-4-03

Xerox copy of the office order issued to Petitioner Redesignating him as AGM (Per & Mines)

W12 4-2-04

Xerox copy of the office order issued by Executive Director to the Petitioner

W13 30-8-04

Xerox copy of the Advocate notice issued to Respondent

W14 8-9-04

Xerox copy of the reply given by Respondent

W15 7-10-04

Xerox copy of the 2A petition filed by Petitioner

W16 20-10-04

Xerox copy of the reply submitted by Respondent before Assistant Labour Commissioner (Central)

Ex. No.	Date	Description	Ex. No.	Date	Description
W25	14-11-00	Xerox copy of the service certificate issued to Mines Manager	M4	4-7-94	Xerox copy of the office order issued to Petitioner as Manager (Accounts).
W26	Sept. 02	Xerox copy of the rate of wages as per Cement Wage Board	M5	6-6-01	Xerox copy of the certificate issued by respondent.
W27	1-4-94	Xerox copy of the ready reckoner of wages	M6	30-9-03	Xerox copy of the office order specifying duties of Petitioner.
W28	1-4-03	Xerox copy of the split up details of special benefits	M7	9-8-02	Xerox copy of the instructions note to quarry at Ramayanpatti.
W29	21-9-92	Xerox copy of the Form H 18(1) settlement revising Benefits and Allowances	M8	12-8-02	Xerox copy of the recommendation of Petitioner to take Disciplinary action against persons.
W30	1-6-90	Xerox copy of the 18(1) settlement	M9	1-4-03	Xerox copy, of the order redesignating the Petitioner as AGM (Per & Mines).
W31	29-9-96	Xerox copy of the 18(1) settlement	M10	24-4-03	Xerox copy of the office order regarding reimbursement of telephone charges
W32	9-1-02	Xerox copy of the office note regarding daily report from Mines	M11	3-9-03	Xerox copy of the office orders circulated by Petitioner.
W33	10-9-03	Xerox copy of the direction note to Petitioner regarding Rectification of discrepancies		11-9-03 23-9-03	
W34	21-10-00	Xerox copy of the note to Petitioner to maintain Separate cash receipts	M12	10-8-03	Xerox copy of the circular regarding telephone expenses.
W35 Series	01-01-00 3-2-00 24-12-99	Xerox copy of the instruction to Petitioner by ED Mr. Rajagopal	M13	9-10-03	Xerox copy of the authorisation given by Executive Director to Petitioner.
W36	21-10-00	Xerox copy of the order note to Petitioner to stop working	M14	11-11-03	Xerox copy of the certificate issued to Petitioner.
W37	17-9-03	Xerox copy of the instruction to Petitioner regarding Sale of reject stones	M15	11-1-04	Endorsement made by petitioner regarding leave sanction.
W38	20-8-99	Xerox copy of the instruction to Petitioner to pay his monthly payment by Mr. Rajagopal, E.D.	M16 series	2-2-04 to 21-2-04	Xerox copy of the slips signed by Petitioner.
For the II Party/management :—			M17	Nil	Xerox copy of the wage slips pertaining to petitioner.
Ex.No.	Date	Description	M18	15-7-77	Xerox copy of the letter from Petitioner to Respondent.
M1	21-1-87	Xerox copy of the office order designating the Petitioner as Deputy Accountant.	M19	27-3-02	Xerox copy of the office order issued by respondent.
M2	19-8-89	Xerox copy of the application of Petitioner for service certificate.	M20	26-2-04	Xerox copy of the sick leave application of Petitioner.
M3	23-8-89	Xerox copy of the service certificate issued to Petitioner.	M21	2-3-04	Xerox copy of the letter from Respondent to Petitioner.
			M22	10-4-03	Xerox copy of the daily report of respondent.
			M23	4-7-94	Xerox copy of the office order redesignating the Petitioner as Manager (Accounts).

M24	20-4-96	Xerox copy of the report to Chairman regarding increase in Salary.
M25	2-4-97	Xerox copy of the note from NTLQ.
M26	27-6-97	Xerox copy of the note of Executive Director to Board of Directors.
M27	22-4-98	Xerox copy of the note submitted by Petitioner to Executive Director.
M28	27-8-98	Xerox copy of the order changing designation of Petitioner.
M29	Nil	Memorandum of Settlement under Form H between Respondent/management and India Cements Employees Union.
M30	26-06-00	Copy of minutes of proceedings of Board of Directors.
M31	03-10-03	Xerox copy of the note of Executive Director to Petitioner for liaison work.
M32	09-10-03	Xerox copy of the note of Executive Director to Petitioner Regarding production for despatches.
M33	10-10-03	Xerox copy of the note of Executive Director to Petitioner Regarding despatches.
M34	01-10-03	Xerox copy of the note of Executive Director to Petitioner Regarding quality maintenance.
M35	Nil	Xerox copy of the attendance register showing the position of Petitioner as AGM.
M36	09-06-99	Xerox copy of the Board resolution nominating ED as Nominee under Mines Act.
M37	24-12-99	Xerox copy of the Board resolution appointing ED as whole Time Director.
M38	Nil	Xerox copy of the leave record of Petitioner.
M39	24-04-02	Xerox copy of the note submitted by Petitioner to ED Recommending regularisation of a staff.

M40	04-03-04	Xerox copy of the complaint filed by Executive Director with police against the Petitioner.
M41	04-03-04	Xerox copy of the receipt given by police.
M42	14-03-04	Xerox copy of the legal notice sent by Respondent to Petitioner.
M43	06-04-05	Xerox copy of the order of reference issued by Ministry of Labour.
M44	31-05-05	Xerox copy of the failure of conciliation report.

नई दिल्ली, 28 मई, 2007

का.आ. 1815.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, गोदावरीखनी के पंचाट (संदर्भ संख्या 156/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-2007 को प्राप्त हुआ था।

[सं. एल-22013/1/2007-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 28th May, 2007

S.O. 1815.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.156/2005) of the Industrial Tribunal, Godavarikhani as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workmen, which was received by the Central Government on 28-5-2007.

[No. L-22013/1/2007-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE THE CHAIRMAN, INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
GODAVARIKHANI**

**PRESENT :— Sri M. Shanmugam, B. Com., B. L.,
Chairman-cum-Presiding Officer**

Saturday, the 23rd Day of December, 2006

Industrial Dispute No. 156 of 2005

BETWEEN :—

Budiga Rajaiah, S/o, Gangaiah,
Aged about 46 yrs., E. C. No. 09035043,
Ex-Coal Filler, R/o. 20-3-133,
Vidyanagar, PO, Godavarikhani,
Dist. Karimnagar A. P. 505 209.

.....Petitioner

AND

1. The Superintendent of Mines,
GDK. No. 7 (LB) Project, S. C. Co. Ltd., RG-1,
Godavarikhanji, Dist. Karimnagar.
2. The Chief General Manager,
S. C. Co. Ltd., Ramagundam Area-1,
Godavarikhanji, Dist. Karimnagar.
3. The Chairman & Managing Director,
S. C. Co. Ltd., P.O. Kothagudem,
Dist. Khammam.

... Respondents

This Industrial Dispute petition coming on before me for final hearing on 11-12-2006 upon perusing the documents on record and upon hearing arguments of Sri D. Krishna Murthy, Advocate for the respondents, for the petitioner, he filed the petition. Afterwards, he was called absent, *set-exparte*, he did not engage the counsel. As per Rule 24 of A. P., I. D., Rules, if without sufficient cause, the petitioner fails to attend or to be represented before this court, it should be considered as if the party had duly attended or had been represented, and nothing stood over for consideration :—

AWARD

1. This is a petition filed U/Sec. 2-A (2) of I.D. Act, 1947 praying to set-aside the dismissal order of 6/12-12-1999 passed by the 2nd respondent, and direct the respondents company to reinstate the petitioner in service, with continuity of service, all other consequential benefits and full back-wages, to meet the ends of justice.

2. The petition affidavit allegations briefly are as follows :— The Petitioner submits that he was appointed as Badli Filler in the respondents company in the year 1982. Later, the petitioner was promoted as coal filler and his services were confirmed. Ever since his appointment in the year 1982, the petitioner discharged his duties in utmost satisfaction of his superiors without any blemish. He served the respondents company for more than 18 years loyally and sincerely.

3. The petitioner submits that the work of coal filler in the underground is very strenuous and hazardous. In the year 1997-1998 he suffered from serious ill health, chronic chest pain and twisting of nerves & joint pains to his legs etc., Even then, he worked for several days but could not complete the required minimum 100 musters. He was constrained to under go prolonged and frequent treatment in SCCL and other hospitals. Due to illness, he was not in a position to attend his duties regularly and he was confined to bed. But 1st respondent issued charge dt. 5/15-11-1998 alleging absenteeism in the year 1997 for misconduct :—

“C. S. O. No. 25, 25 : Habitual late attendance or habitual absence from duty without sufficient cause”

The petitioner submitted his explanation to the said charge sheet along with medical certificates. The

respondents condoned the absence of the petitioner and took the petitioner into service. The petitioner attended to his duties under the 1st respondent in the year 1998 and 1999 also, duly taking treatment. That the petitioner underwent treatment in company's hospital and other private/Government hospital etc. Thus, there is reasonable and sufficient cause for the alleged absence of the petitioner. It is not at all a habitual one or deliberate. His personal treatment, and other domestic problems are inevitable and beyond the control of the petitioner. His previous attendance for more than 15 years proves the punctuality and loyalty of the petitioner to his duties. The total paid National Holidays and weekly holidays of 1997 were also unjustly shown as absent.

4. But the respondent's company got conducted a farce of domestic enquiry in an eye wash manner. The petitioner was not all given opportunity to cross-examine the management witnesses i.e., Shri B. Iyalaiah, office Superintendent and Shri Abdul Aleem, pay sheet Clerk. He was denied fair opportunity to defend himself during the alleged domestic enquiry. Even the basic principles of natural justice were not followed. The entire statements are proformas and the blanks were filled up by the E.O., the petitioner wanted to produce evidence on his behalf, but the E.O., denied the same. However, the respondent authorities, not at all contradicted the statement of the petitioner that he could not attend to his duties regularly due to ill health. It was not all rebutted and remained unchallenged. The uncontradictory statement of the petitioner shall prevail. The findings of the enquiry officer are biased and perverse. The enquiry officer not at all considered the true facts. This court may declare the domestic enquiry as invalid and vitiated, as a preliminary point.

5. That the 2nd respondent failed to consider the representation of the petitioner on the enquiry report and proceedings. Straight away, the 2nd respondent issued the final order and dismissed the petitioner from service on 13-8-1999. No show cause notice was issued to the petitioner proposing the capital punishment of dismissal from service. It is void, ab initio and contrary to the well-settled law. The said order No. P.R.G. 1/32-99/5116, dt. 5/12-8-1999 are highly arbitrary, unjust, illegal and cannot be sustained under law.

6. Further, the extreme and capital punishment of dismissal imposed by the 2nd respondent on the petitioner is highly excessive and shockingly disproportionate to the alleged charge for the short for the 100 minimum required musters during 1997. It is not at all commensurate and amount to economic death of the petitioner. He served the company from 1982 to 1999 i.e., for more than 18 years without any blemish. Now he is over aged and has not only few years of service. He spent huge amounts for his

treatment, and other domestic problems. He and his entire large family faced lot of hardship for livelihood and incurred several debts.

7. That the petitioner hails from a very poor family and has no other source of income, except this job. He is the sole breadwinner for his entire large family. He has to feed his ailing old aged parents, wife and children, due to the unjust dismissal from service by the respondent's company, they are thrown on the streets. The petitioner is facing lot of hardship and mental agony. Eversince his dismissal from service, the petitioner remained unemployed and could not get any other job inspite of his best efforts.

8. That this court has got every jurisdiction to adjudicate his case and wide powers vested u/s. 11-A of I.D., Act to quash the dismissal order. That no civil or criminal case is filed by the petitioner before any other court or authority, except the present petition before this court. Therefore prayed this court to set-aside the dismissal order dt. 6/12-12-1999 passed by the 2nd respondent; and direct the respondents' company to reinstate the petitioner into service, with continuity of service, all other consequential benefits and full back-wages. to meet the ends of justice.

9. The averments of the counter filed by the respondents are that it is a Government company incorporated under the provisions of Companies Act, 1956 for carrying out the business of winning and selling the coal. That since the coal mining industry is a central subject the appropriate Government for this respondent-management is Central Government. The respondent submits that as per S. 7A(I) of I.D., Act, the appropriate Government may be notifications in the official gazette constitute one or more industrial tribunals for the adjudication of industrial disputes relating to any matter whether specified in the 2nd schedule or 3rd schedule and for performing such other functions as may be assigned to them under this Act. The respondent submit that Central Government established an Industrial Tribunal-cum-Labour Court at Hyderabad from 29-12-2000 for adjudication of industrial disputes and the petitioner ought to have approached the said tribunal for the redressal of grievance, if any. But, the petitioner conveniently avoided to file his petition before the tribunal established by the Central Government for the reasons best known to him. That the petition is not maintainable under law and the same may be dismissed on this ground alone.

10. That the maintainability of the dispute raised by the petitioner before this court may be decided as preliminary issue before proceeding with the trial. That the petitioner failed to exhaust the conciliation procedure as laid down in the I. D. Act and filed the present petition before this Tribunal under S. 2A(2) of I. D., Act, 1947 as amended by A. P., Amendment Act, 1987 (A. No. 32 of 1987). That as the appropriate Government for coal mining industry is the Central Government the State Amendment

Act is not applicable to the respondent company and the petition filed by the petitioner is not maintainable under law and is liable to be dismissed in limine.

11. In reply to para No. 1 of the petition, the petitioner was appointed in the respondent company on 2-9-1982 as Badli filler and later he was designated as coal-filler. The averment of the petitioner that ever since his appointment in the year, 1982, he discharged his duties to the utmost satisfaction of his superiors without any kind of blemish is denied and the petitioner is put to strict proof of the same.

12. In reply to para No. 2, that the averment of the petitioner that in the years, 1997-1998 he suffered from serious ill health, chronic chest pain and twisting of nerves and joint pains to his legs etc., Even then, he worked for several days but could not complete the required minimum 100 musters is denied and the petitioner is put to strict proof thereof. That an underground employee should put 190 mandatory musters minimum per year. That the petitioner did not inform regarding his ill health to his superiors or mine authorities at any point of time. That the respondent company is carrying a mining operation, which is engaged in exploration, excavation, extraction and winning of coal in the 4 Districts of Andhra Pradesh i. e., Khammam, Karimnagar, Adilabad and Warangal and has a well established chain of hospitals in all its areas and also in the nearby to cater to the health requirements of its employees and their family members. It is also mandatory under the Mines Act/Regulations to maintain the hospitals that are manned by the qualified medical practitioners. Also the respondent company has rules and regulations to refer the cases of complicated diseases to out side hospitals like Osmani General Hospital, Gandhi Medical hospital and Nizams Institute of Medical Sciences and the charges are also borne by the respondent-company. The petitioner is fully aware of the same but did not avail the facilities. He did not report at company's hospital for sick and treatment. That he remained absent from duty without sufficient cause on a number of days during the year 1997 and he put in only 80 days attendance during the year 1997. Hence he was issued with a charge sheet dt. 5/15-11-1998 under company's standing orders No. 25.25 which reads as follows :—

“25.25. Habitual late attendance or habitual absence from duty without sufficient cause”.

The contention of the petitioner that the respondents condoned the absence of the petitioner and took the petitioner into service is not correct. As per regular practice when he reported for duty he was allowed. Allowing for duty is not condoning the absence of the petitioner.

The averment of the petitioner that the petitioner under went treatment in the company's hospital and other private/Government hospitals is denied and the petitioner is put to strict proof of the same. He did not submit any documentary evidence to that effect. The contention of

the petitioner that the total paid national holidays and weekly holidays of 1997 were also unjustly shown as absent is not correct. That as per rules if the paid holidays or weekly playdays falls between absents they will automatically be treated as absents. The petitioner is not aware of the rules.

13. In reply to the para No.3, that the all averments of the petitioner made in this para are denied and the petitioner is put to strict proof of the same. That the petitioner submitted an explanation dated nil to the charge sheet which was found not satisfactory.

Hence, a domestic enquiry was ordered vide enquiry notice dt. 15-2-99 fixing the enquiry on 22-2-99. The petitioner acknowledged the same. He fully participated in the enquiry on 22-2-99. He was given full and fair opportunity to defend his case in the enquiry. At the beginning of the enquiry, the enquiry officer has explained the procedure of the enquiry in telugu to the both parties. That the petitioner did not chooses to take any assistant's help during the enquiry proceedings. The management witnesses have produced the documents i.e., pay sheets and attendance registers pertaining to the petitioner in support of their statements. The documents were verified in the presence of the petitioner and it was found that the absence mentioned in the charge sheet were correct. The petitioner accepted the same. During the enquiry proceedings the petitioner admitted the charge levelled against him under company's standing orders 25.25. All contents of the enquiry proceedings were explained in telugu to the petitioner. The petitioner put his signature as a token of acceptance. The enquiry officer conducted the enquiry by following the principles of natural justice.

14. In reply to para No. 4 that a show cause notice dt. 22-5-99 was issued to the petitioner alongwith the copy of the enquiry report and proceedings by advising him to make representation, if any. He acknowledged the same and submitted a representation dt. 27-5-99 which was found not satisfactory. His attendance particulars from 1996 are furnished hereunder :—

Year	Actual attendance
1996	89
1997 (charge sheeted year)	80
1998	84
1999 (upto June)	41

15. From the above, it is observed that the petitioner did not improve his attendance after issuing the charge sheet also. The respondents' company employed more than 83,000 persons, which includes workmen, executives and supervisors. The production results will depend upon the over all attendance and performance of each and every individual. They are inter-linked and inseparable. In this regard, if any one remains absent, without prior leave or without any justified cause, the work to be performed gets

effected. Such un-authorised absence created sudden void, which at time is very difficult to fill-up, and there will be no proper planning and already planned schedules get suddenly disturbed without prior notice. That is the reason why the respondents's company is compelled to take severe action against the un-authorised absentees. In the instant case, the petitioner is one such unauthorised absentee having been only 80 days attendance in the year 1998 and he has not improved his attendance and work performance even after issuing the charge sheet. With the advent and implementation of new industrial and economic policies by the Central/State Governments as well as the company, the company cannot go on employing the persons who are chronic absentees, who are a burden to the company. As the charge levelled against the petitioner was proved and his attendance in the previous years was very poor and he did not improve his work performance after issuing the charge sheet also, the respondents management was constrained to dismiss the petitioner from the services w.e.f., 13-8-1999.

16. It is submitted that this court may decide the validity of the domestic enquiry as a preliminary issue and permit this respondent to lead evidence if this court comes to a conclusion that the domestic enquiry is not valid. Therefore prayed this court to dismiss with costs, for which act of justice the respondents shall ever pray.

17. On behalf of the petitioner side, after filling the claim statement and also on 3-7-2006, vakalat was filed alongwith consent petition. On 10-7-2006 for consent petition, leave was granted. On 16-10-2006 when the petitioner not at all attending the court, the petitioner counsel endorsed on the vakalat stating that he is withdrawing vakalat in this case by intimating the same to the party as the vakalat is mistakenly filed, so withdrawing the vakalat. Hence the court case is posted for appearance of the petitioner to file vakalat with consent. On 30-10-2006 petitioner called absent and no representation. On 13-11-2006, the petitioner called absent. The petitioner is not turned-up to the court since from the beginning. When the petitioner not turned-up nearly for a period of more than one year, no purpose would be served by simply adjourning the case except the court has no other go made set-exparte. On that day also, petitioner called absent and no representation. Hence, made set-exparte. The petitioner did not turn-up to the court to prove his innocence. On the petitioner side, no documents are filed, no oral evidence and no decisions filed into the court. On behalf of the respondent side, no oral evidence and no documents are marked and also no decisions were filed. Only arguments heard as per Rule 24 of I.D. Act, followed on behalf of the petitioner, and heard oral arguments on behalf of the respondent side.

18. Before going to the merits of the case, I would like to submit the delay of the petition for disposal and also delay for the disposal. The petitioner filed this petition on

21-12-2005 and it was numbered on 29-12-2005. Counter was filed on 16-10-2006. When the petitioner has filed vakalat, afterwards the counsel withdrawn the vakalat stating it was filed mistakenly. In the petition, the verification also signed by the petitioner himself, itself shows that the petitioner is not correctly filed. In this case the consent was inferred. In the claim statement there is no signature who verified affidavit allegations. After filling of the claim statement, the petitioner did not turn-up to the court to defend his case.

19. It is an admitted fact that the petitioner was appointed in the respondent company and he worked as coal filler. He was dismissed from the service vide letter dt. 12-8-1999 under the provisions of 25 (25) of certified standing orders i.e. absenteeism.

20. The claim statement allegations the petitioner was suffered from serious ill-health, chronic chest pain, twisting of nerves and joint pains to his legs etc., in the year, 1997-98. Even then he worked for several days, but could not complete the required minimum 100 musters. Due to illness, he was not in a position to attend his duties regularly. So he confined to bed. The absence of the petitioner was not intentional, but due to ill-health which deserves to be condoned. The act of punishment of dismissal from service of the petitioner by the respondent is shockingly disproportionate to the gravity of charges. Hence, he prayed this court to set-aside the dismissal order directing the respondent to reinstate the petitioner into service with continuity of service with all other attendant benefits including the back-wages etc.

21. The respondent counsel argument was that the company is established under the company's Act under Central Government. Central Government established an Industrial Tribunal-cum-Labour Court at Hyderabad for adjudication of Industrial Disputes. The petitioner filed this petition in this court is not maintainable under law. Hence, the same may be dismissed on that ground alone. The petitioner had only 80 days of attendance during the year 1997 without leave or permission. The petitioner received with the charge-sheet under clause No. 25.25 of standing orders of the respondent company for his misconduct for habitual absenteeism and the petitioner was suspended. The petitioner submitted his explanation stating that due to his ill-health suffering from various diseases, he had not attended the duty and he requested the company to excuse him for this time. As his explanation was not satisfactory, a domestic enquiry was ordered and issued enquiry notice and conducted the enquiry. The petitioner attended the enquiry and participated in the domestic enquiry. The charges were explained to the petitioner and he has no objection to record the proceedings of the enquiry in english language. He did not take the assistance of any defence and he accepted the charge levelled against him and pleaded guilty of mis-conduct. He was also not chooses to cross-examine the management witnesses

during the domestic enquiry. In the domestic enquiry, he clearly stated and he admitted that he had absented from his duties habitually from 1996 to 1999 due to ill-health. The petitioner did not give any explanation to the charge sheet served on him. Petitioner also did not file any documents to prove that he was suffered from ill-health. The petitioner gave assurance to the respondent that he will attend regularly without absenteeism. On his undertaking he was kept under observation, but the petitioner failed to attend to his duties inspite of his undertaking given. The charges framed against him were proved in the domestic enquiry. Respondent issued show cause notice by enclosing the copies of enquiry report and enquiry proceedings. The petitioner gave the reply to the show cause notice. The petitioner failed to improve his performance inspite of giving fair opportunity and his past performance is also not satisfactory. Hence, the respondent company constrained to terminate the services of the petitioner. The petitioner concealing all the above facts filed this petition. Hence, he prayed this court to dismiss the petition in the ends of justice, else the respondent company suffer from irreparable loss.

22. From the petitioner's claim statement and on its perusal and also the arguments of the respondent counsel, *the following issue is framed as preliminary issue for determination :*

Whether the enquiry officer was not at all given an opportunity to defend the petitioner's case and the findings of the enquiry officer are biased and perverse without following the basic principles of natural justice. So the enquiry is invalid and vitiated.

23. In this case, the petitioner himself did not chooses to attend the court and defend his case. The respondent counsel argument was that the petitioner is habitual absentee without obtaining any prior permission from the authorities concerned and his absconding from duties. The petitioner also did not file any documents that he was suffered with ill-health, due to various diseases. The respondent followed the procedural principles of natural justice by issuing the charge sheet by sending a notice of enquiry to the petitioner and he was also participated in the enquiry and in the enquiry, he admitted the guilt and he has also given an undertaking stating that here afterwards he will not be absented to his duties. He was also given family counselling, even then he was continuing to absent, not attending to the duties. During the observation period also, he failed to attend to his duties. He was also given fair opportunity to defend his case in the domestic enquiry. After issuing show cause notice to the petitioner, the petitioner also gave the reply. The respondent was not satisfied with the reply given by the petitioner. The respondent followed the principles of natural justice by issuing notices and conducting enquiry by giving an

opportunity to the petitioner. The petitioner did not raise any objection or any dispute. So the petitioner did not get any prejudice in conducting the enquiry. So I did not find that the petitioner was not prejudiced in any way on account of conducting enquiry by the respondent. It cannot be said that the enquiry was conducted in gross violation of principles of natural justice. The findings recorded by the respondent is perfectly legal and valid. It need not be interfered with by this court. So the petition contention is refused. The court thinks the case of the petitioner is not at all real one, substance or there is substantiate possibility of success of that the result will not be different even if the natural justice is followed. Hence, the domestic enquiry conducted is legal, proper valid and binding on the parties.

24. From the respondents counsel argument the petitioner in failed to report for duty and remaining absent without obtaining leave, had acted in a manner irresponsibility and unjust fiedly that on the findings of the enquiry officer, the charge was proved that the petitioner remained absent without obtaining leave in advance. The respondent company has not resorted to extreme punishment at the very first instance of absenteeism of the petitioner-workman. The respondent company has tolerated him for quite some time and ultimately when there was no improvement in his behaviour to attend the duties. The respondent has no other go except to dismiss the petition from the service.

25. As per the claim statement, allegations, the contention of the petitioner that the punishment of dismissal of the petitioner from service of the company is totally disproportionate to the proved mis-conduct of unauthorised absenteeism of the petitioner. The disciplinary authority failed to advert itself to this aspect of the matter. I find it difficult to accept the submissions made by the petitioner in his claim statement. In this case, the petitioner admitted the un-authorised absenteeism in the enquiry proceedings. The petitioner also did not turn-up to the court to prove his case. The petitioner also did not file any documents to prove that he has taken treatment from the hospitals.

26. The mis-conduct committed by the petitioner is un-authorised absence, as he did not obtain any prior permission from the main authorities for absconding from his duties is undoubtedly an irregularity and serious in nature. In the circumstances, this court cannot take any lenient view and substitute its opinion for that of the respondent. The findings of the respondent even on the question relating to the proportionality of punishment is based upon the evidence available on record. In this case, the petitioner did not turn-up to the court and he did not file any documents, he was suffered with ill-health and taken treatment. The past record of the petitioner also shown his habitual absenteeism in attending to his duties.

27. In my considered opinion that the findings taken by the respondent does not suffer from any error whatsoever.

Having regarding all the aspects and circumstances of the case, the punishment imposed by the management is not disproportionate requiring any interference in exercising the descirtion U/sec.11-A of the I.D., Act. In these circumstances, I do not find any merit in this petition.

28. In my view this court would have no jurisdiction to show any sympathy for such a workman who is guilty of un-authorised absence should not be shown any leniency especially when he continuous to absent himself and for a long period. The enquiry officer and the disciplinary authority both have considered all the facts and circumstances of the case and have correctly recorded their findings against the petitioner. I do not find any serious illegality or any infirmity in the order of the respondent. Hence, I therefore dismiss the petition.

In the result, the petition is liable to be dismissed and is accordingly dismissed. But in the circumstances, no costs.

Typed to my dictation by Typist directly, corrected and pronounced by me in the open court on this, the 23rd day of December, 2006.

M. SHANMUGAM, Chairman-cum-
Presiding Officer

Appendix of Evidence

Witnesses examined

For workman : —Nil—
For Management : —Nil—

Exhibits

For workman : —Nil—
For Management : —Nil—

नई दिल्ली, 28 मई, 2007

का.आ. 1816.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. पी. डब्लू. डी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण नं.-2, नई दिल्ली के पंचाट (संदर्भ संख्या 117/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-2007 को प्राप्त हुआ था।

[सं. एल-42012/13/2005-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 28th May, 2007

S.O. 1816.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.117/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure in the Industrial Dispute between the management of CPWD, B-Division, CPWD, and their

workmen, received by the Central Government on 28-5-2007.

[No. L-42012/13/2005-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE THE PRESIDING OFFICER: CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II, RAJENDRA BHAWAN, GROUND
FLOOR, RAJENDRA PLACE, NEW DELHI**

PRESIDING OFFICER: R. N. RAI I.D. No. 117/2005

In the matter of :—

Shri Naresh Kumar and Anr;
C/o. All India CPWD (MRM) Karamchari Sangathan
(Regd.)
House No. 4, Gali No. 1,
Karkardooma Village,
Delhi-110092.

Versus

1. The Superintending Engineer,
Electrical Coordination Circle, CPWD,
East Block, R. K. Puram,
New Delhi.
2. The Executive Engineer,
B-Division, CPWD,
I. P. Bhawan,
New Delhi.

AWARD

The Ministry of Labour by its letter No. L-42012/13/2005-IR(CM-II) Central Government Dt. 8-11-2005 has referred the following point for adjudication.

The point runs as hereunder :—

“Whether the demand of the All India CPWD (MRM) Karamchari Sangathan (Regd.), Gali No. 1, Karkardooma Village, Delhi-92 against the Superintending Engineer, Electrical Coordination Circle, CPWD, R. K. Puram, New Delhi/Executive Engineer, B-Division, CPWD, I.P. Bhawan, New Delhi for regularization of Shri Naresh Kumar and Shri Anand, Beldar w.e.f. 12-12-1985 and 6-5-1986 respectively i.e. from the date of initial appointment is legal and justified? If so, to what benefits the workmen are entitled to.”?

The workmen applicants have filed statement of claim. In the statement of claim it has been stated that the workman S/Shri Naresh Kumar and Anand have been working as Beldars on muster roll (daily rated) w.e.f. 12-2-1985 and 6-5-1986 and the workmen are still working under the above managements as Beldars on muster roll.

That the services of the workmen have not been regularized as Regular Beldars on workcharged establishment w.e.f. 12-12-1985 and 6-5-1986 respectively whereas the services of some of the junior workmen to these workmen were regularized by the above managements.

That consequent upon judgment of Hon'ble Supreme Court of India in the matter of Surender Singh and others Vs. Engineer-in-Chief, CPWD and others, the workmen Shri Naresh Kumar and Shri Anand have been granted temporary status which includes basic pay, increment, leave, HRA, CCA w.e.f. 1-9-1993 and the workmen did not get other fringe benefits such as medical facilities, liveries, cycle allowance, washing allowance etc. being as temporary status beldars.

That in accordance with the judgment of Hon'ble Supreme Court in the matter of Surender Singh and others Vs. Engineer-in-chief, CPWD and others and as per provisions of Model Standing Orders the workmen Shri Naresh Kumar and Anand, Beldars were entitled to be regularized from the respective dates of initial employment i.e. 12-12-1985 and 6-5-1986 in the regular pay scale along with all consequential benefits after putting in 90 days of service.

That the workmen had put in 240 days of service in each year under the respondents and have been in continuous service since 12-12-1985 and 6-5-1986.

That the workmen have been performing the duties of Beldars which are essentially the same duties that the performed by regular Beldars in the CPWD. The work being done by the workmen is essential to the work of the CPWD for day to day maintenance etc.

That the workmen being designated as Temporary Status Beldars and that also from a subsequent date they are suffering by way of regular promotion, assured career promotion scheme benefits, pensionary benefits, seniority whereas similarly placed workmen in the regular establishment of the CPWD are entitled to all these benefits.

That vacant sanctioned posts are available with the respondent against which the services of these workmen can be considered for absorption as work charged beldars in the establishment of CPWD.

That the Hon'ble Tribunal in other similar cases viz. Shri Ram Khilari, Beldar, Mohan Lal and others, Kashi Nath and others has awarded regularisation from the date of initial employment on muster roll with all consequential benefits. An extract of the award of this Hon'ble Tribunal in case of Ram Khilari is enclosed and marked as Annexure-1. The management of CPWD has implemented the award of the Hon'ble Tribunal.

That by its actions, the management is guilty of commission of unfair labour practices as per provisions of the ID Act, 1947.

That the workmen Shri Naresh Kumar and Shri Anand, Beldars are legally and rightfully entitled to regularisation as work charged Beldars w.e.f. 12-12-1985 and 7-5-1986 with all consequential benefits.

The management has filed written statement. In the written statement it has been stated that the junior workers, Shri Randhir Singh whose date of appointment is 11-11-1986 and Shri Ram Prasad Tewari whose date of appointment is 10-1-1991 and Shri Kalu Ram whose date of appointment is 28-11-1985 respectively were regularized w.e.f. 3-8-2002 and 27-11-2001 as per Court's Order in O.A. No.2569 dated 22-2-2001 and O. A. No.362/2000 of 25-1-2001 and C.P. No.329/2001 of dated 9-11-2001 respectively.

The Hon'ble Supreme Court in its recent judgment dated 10-04-2006 in SLP (C) No.9103-9104 of 2001 had held as follows :—

“R. There is no case that any assurance was given by the Government or the concerned Department while making the appointment on daily wages that the status conferred on him will not be withdrawn until some rational reasons comes into existence for withdrawing it. The very engagement was against the constitutional scheme. Though the Commissioner of the Commercial Taxes Department sought to get the appointments made permanent, there is no case that at the time of appointment any promise was held out. No such promise could also have been held out in view of the circulars and directives issued by.

The Government after the Dharwad decision. Though there is a case that the State had made regulations in the past of similarly situated employees, the fact remains that such regularizations were done only pursuant to judicial directions, either of the Administrative Tribunal or of the High Court and in some case by this Court. Moreover, the invocation of the doctrine of the legitimate expectation cannot enable the employees to claim that they must be made permanent or they must be regularized in the service though, they had not been selected in terms of the Rules for appointment. The fact that in certain cases the Court had directed regularisation of the employees involved in those cases cannot be made use of to found a claim based on legitimate expectation. The argument if accepted would also run counter to the constitutional mandate.”

That regulation of service of daily rated workers depends on availability of vacancies in the respective category as per the terms and conditions of the prescribed recruitment rules.

In implementation of the court's order in Surinder Singh case, the department got created 8982 posts in September, 1992 for regularisation of the eligible daily rated muster roll workers who were engaged prior to imposition of ban i.e. 19-11-1985. Since the posts were created in September, 1992 therefore, all such workers were regularized from the prospective dates and not from the date of their initial engagement. All the daily rated workers who were on the roll of the department have been paid difference of wages on the principle of equal pay for equal work from the date of their respective employment as casual labour.

It is denied that no one was regularized from the date of his/her initial date of engagement as stated by the workmen in para under reply. It is submitted that the case of Shri Ram Khilari is pending with DGW Office for direction and in the case of Shri Mohan Lal and Others the department has already filed a writ petition in the High Court of Delhi and is still pending for final disposal and the case of Shri Kashi Nath and Others the department is going to challenge the award by filing writ petition in the High Court of Delhi is near future.

It is, therefore, respectfully prayed that the claim filed by the workmen may kindly be dismissed/rejected with heavy cost in the interest of justice.

From perusal of the records it transpires that reply was filed on 05-09-2006 and the workmen were directed to file rejoinder and affidavit. They did not file rejoinder and affidavit on 24-2-2006, 27-11-2006, 3-1-2007, 13-2-2007, 7-3-2007, 23-3-2007. Last opportunity has been given 4 times still no rejoinder and affidavit has been filed till 17-05-2007. The opportunity of filing rejoinder and affidavit was closed and the case was posted for award.

The workmen have failed to establish that juniors to them have been given regular appointment from the initial date of their engagement. The workmen were appointed as casual Beldar in 1985-86. A casual Beldar has no right to regularisation in case there are no vacant posts. The workmen have not filed any evidence documentary or by way of affidavit to establish the statement of the claim. The averments of the claim stands not proved.

The reference is replied thus :—

The demand of the All India CPWD (MRM) Karamchari Sangathan (Regd.), Gali No. 1, Karardooma Village, Delhi-92 against the Superintending Engineer, Electrical Coordination Circle, CPWD, R.K. Puram, New Delhi/Executive Engineer, B-Division, CPWD, I.P. Bhawan, New Delhi for regularization of Shri Naresh Kumar and Shri Anand, Beldar w.e.f. 12-12-1985 and 06-05-1986 respectively i.e. from the date of initial appointment is neither legal nor justified. The workmen applicants are not entitled to get any relief as prayed for.

The award is given accordingly.

Date : 18-05-2007

R. N. RAI, Presiding Officer

नई दिल्ली, 28 मई, 2007

का.आ. 1817—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, गोदावरीखानी के पंचाट (संदर्भ संख्या 30/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-2007 को प्राप्त हुआ था।

[सं. एल-22013/1/2007-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 28th May, 2007

S.O. 1817.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.30/2005) of the Industrial Tribunal Godavarikhani as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workman, which was received by the Central Government on 28-5-2007.

[No. L-22013/1/2007-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GODAVARIKHANI

Present : Sri M. Shanmugam, B. Com., B. L.,
Chairman-cum-Presiding Officer

Saturday, The 23rd Day of December, 2006

Industrial Dispute No. 30 of 2005

Between :—

Pallikonda Chandraiah, S/o Chinna Lingaiah,
Age 45 yrs., Occ : Ex-SCCL Employee,
(Coal Cutter in RKNT incline,
Srirampur Area, (E.No. 2760868),
R/o Sunnambatti Wada,
Mancherla town & Mdl. of Adilabad Dist.

....Petitioner

AND

The General Manager,
The SCCo.Ltd., Srirampur Area,
Adilabad Dist.

....Respondents

This Industrial Dispute petition coming on before me for final hearing on 11-12-2006 upon perusing all the documents on record and upon hearing arguments of Sri D. Krishna Murthy, Advocate for the respondents. For the petitioner, he filed the petition. Afterwards, he was called absent, set-exparte, he did not engage the counsel. As per Rule 24 of A.P., I.D., Rules, if without sufficient cause, the petitioner fails to attend or to be represented before this court, it should be considered as if the party had duly attended or had been represented, and having stood over

for consideration till this date, the court passed the following :—

AWARD

1. This is a petition filed U/Sec. 2-A(2) of I.D., Act, 1947 praying to set-aside the proc., Ref. No. SRP/PER/13.008/692, dt. 27-1-2005 passed by the respondent and direct the respondent's company to reinstate him into service with continuity of service and all sorts of consequential attendant benefits thereof including full back-wages to meet ends of justice.

2. The petition affidavit allegations briefly are as follows :—

The petitioner submits that he was appointed in the SCCo. Ltd., in the year 1985 and served the company for about 19 years without any adverse remarks. He adhered to the instructions of the respondent's authority and discharged his duties to the utmost satisfaction of his superiors.

3. He had not habitually absented from his duties during the year, 2002, as has been alleged by the management without sufficient cause. It was repeatedly reported to all concerned that his father was suffering from paralysis. He had been attending on him on the days of his absence to the duties as there was no other member of his family to look after as carefully as he does. A farce of enquiry was conducted turning a deaf ear to his explanation. It was all done at the behest of the management only to dismiss him without paying any attention to the cause shown by him for his absence.

4. The management's out look is evident by this that workman is a machine tool. He has to attend to his duties by hook or crook welfare of the workman includes his father, mother, wife and children atleast if not more than that. The management should also have the human face to be sympathetic to the problem being faced by the workman.

5. All that is to pray this court is that he is not habitual absentee of his duties. He had to remain during the days on his absence at home in 2002 only to help his paralysis father under forced circumstances.

6. It is also pertinent to take into consideration that he has undergone treatment for viral fever from 4-11-2004 to 30-11-2004. The Civil Asst. Surgeon. Peddapalli, who treated him had given him fitness certificate to this effect.

7. He hails from a very poor family and his entire family members are facing much hardships for livelihood. He remained unemployed and could not secure any alternate employment, despite best efforts. He did not file any petition before any court of law, seeking this relief. Therefore prayed this court to set-aside the proceedings Ref. No. SRP/PER/13.008/692, dt. 27-1-2005 passed by the respondent and direct the respondent's company to reinstate him into service with continuity of service and all sorts of consequential attendant benefits thereof including full back-wages to meet ends of justice.

8. The averments of the counter filed by the respondent are that it is a Govt. company incorporated under the provisions of Companies Act, 1956 for carrying out the business of winning and selling the coal. That since the coal mining industry is a central subject, the appropriate Government for this respondent-management is Central Government. The respondent submits that as per S.7 (i) of ID Act, the appropriate Government may by notification in the official gazette constitute one or more Industrial Tribunals for the adjudication of industrial disputes relating to any matter whether specified in the 2nd schedule or 3rd schedule and for performing such other functions as may be assigned to them under this Act. That the Central Government established an Industrial Tribunal-cum-Labour Court at Hyderabad from 29-12-2000 for adjudication of Industrial Disputes and the petitioner ought to have approached the said tribunal for the redressal of grievance, if any. But the petitioner conveniently avoided to file his petition before the tribunal established by the Central Government for the reasons best known to him. That the petition is not maintainable under law and the same may be dismissed on this ground alone.

9. That the maintainability of the dispute raised by the petitioner before this court may be decided as preliminary issue before proceeding with the trial.

10. That petitioner failed to exhaust the conciliation procedure as laid down in the ID Act and filed the present petition before this tribunal under S. 2A(2) of ID Act, 1947 as amended by A.P., Amendment Act, 1987 (Act No. 32 of 1987). That as the appropriate Government for coal mining industry is the Central Government the State Amendment Act is not applicable to the respondent and the petition filed by the petitioner is not maintainable under law and is liable to be dismissed in limine.

11. The respondent submits that in reply to para 1 of the petition that the petitioner was appointed in the respondent company vide order dt. 27-1-2005 for his misconduct of habitual absence from his duties during the year 2002. That prior to his dismissal, he is not regular in his duties.

12. In reply to para 2,3 & 4 of petition the respondent submits that the petitioner attended 150 days in the year, 1999, 147 days in the year 2000 and 141 days in the year 2001. He attended for only 79 days during the year 2002 and remained absent for the remaining period without leave or permission. As such the petitioner was issued with the charge sheet dt. 25-3-2003 for his misconduct of habitual absence from duty without leave or permission under clause 25.25 of the certified standing orders of the company. In spite of receipt of the chargesheet the petitioner failed to submit his explanation. The date of enquiry into the above charge-sheet was fixed on 19-7-2003 and enquiry notice was served on the petitioner on 15-7-2003.

13. The petitioner attended the enquiry on 19-7-2003 and fully participated in the enquiry proceedings. During

the enquiry the charges levelled against the petitioner were explained to him by the enquiry officer. The petitioner was advised to take the assistance of any of his co-worker to defend his case. The petitioner did not want to take the assistance of any of his co-worker, and admitted his guilt. The petitioner did also not choose to cross-examine the management witnesses during the enquiry proceedings. During the enquiry the petitioner stated before the enquiry officer that he was absent for duties due the paralysis to his father and assured the respondent company that he will be regular in future and requested to excuse him in view of his long service in the company. That he did not submit any documents in support of the ill-health of his father. With a view to give him a final opportunity he was issued with a show-cause notice dt. 28-1-2004. The petitioner submitted his representation dt. 6-2-2004 requesting the company that he may be given final opportunity and he will put up 20 musters per month in future and if he fails, action may be taken against him.

That in pursuance of his representation dt. 6-2-2004 and undertaking dt. 11-2-2004 the petitioner was allowed to work and to improve his performance and kept the punishment in abeyance. The in spite of giving opportunity the petitioner has put in only 82 days of attendance during the entire year of 2004 and failed to put-up 20 musters per month as assured by him during the observation period. That the petitioner worked 79 days in the year 2002, 88 days in the year 2003; and 82 days in the year, 2004. The petitioner failed to improve his attendance in the year 2003 in spite of receipt of charge sheet and did not improve his performances as per his undertaking in the year 2004. As such, the services of the petitioner were terminated vide order dt. 27-1-2005 w.e.f., 1-2-2005.

15. It is submitted that the respondent company is doing the business of winning and selling of coal by employing more than 90,000 persons. It is further submitted that if the employees habitually abstain/abscond from their duties the required production/planned production targets will not be achieved resulting in huge losses to the respondent company. To avoid this contingency the respondent company incorporated the absenteeism as one of the acts of misconduct which is approved by the Central Government in accordance with the procedure laid down in the industrial employment (Standing orders) Act, 1946.

16. In reply to para 5 of the petition, it is submitted that the petitioner had never submitted any documents to prove the illness of his father before the enquiry officer. That the petitioner had never represented to the respondent company regarding his illness from 4-11-2004 to 30-11-2004. That the charge sheet dt. 25-3-2003 issued to the petitioner pertaining to his unauthorised absence for his duties during the year 2002 and the alleged illness stated by the petitioner is not pertaining to the charge-sheeted period.

17. That the respondent-company is maintaining a chain of hospitals to cater health and medical needs of its

workmen and their family members. Had the father of petitioner really suffered from paralysis he would definitely have taken treatment in the respondent's hospital. That only to gain sympathy the petitioner is coming with all such false pleas. The petitioner concealing all the above facts filled this petition for his wrongful gain. Therefore, the respondent company prays his court to dismiss the petition in the ends of justice; else the respondent company suffers irreparable loss.

18. On behalf of the petitioner side, after filing of the claim statement, the petitioner did not choose to turn-up to the court to prove his innocence. On the petitioner side, no documents are filed, no oral evidence and decisions filed into the court. On behalf of the respondent side also no oral evidence and documents are marked, and also no decisions are filed. Only arguments heard by the respondent side. As per Rule 24 of ID Act followed on behalf of the petitioner and heard argument on behalf of the respondent.

19. Before going to the merits of the case. I would like to submit the delay of the petition for disposal, he filed the petition on 28-2-2005 and it was numbered on 29-3-2005. Counter was filed on 8-8-2005. He was made set-exparte for his failure to appear on 21-8-2006. Respondent side heard arguments on 11-12-2006. Vakalat was not filed nearly 6 months. In this case, consent was inferred. In the claim statement, there is no signature who verified the affidavit allegations. After filing of claim statement, the petitioner did not turn-up to the court to defend his case.

20. It is an admitted fact that the petitioner was appointed in the company and he worked as coal cutter. He was dismissed from the services vide letter dt. 27-1-2005 under the provisions of 25 (25) of certified standing orders i.e., absenteeism.

21. The claim statement allegations, the petitioner's father was suffered from paralysis. He had been attended on him on the days of his absence to look-after as carefully as the petitioner do. The absence of the petitioner was not intentional, but accidental which deserves to be condoned. The act of punishment of dismissal from service by the petitioner by the respondent is highly shocking and disproportionate to the gravity of the charge. Hence, he prayed this court to set-aside the dismissal order directing the respondent to re-instate the petitioner into service with continuity of service with all other attendant benefits including the back-wages etc.

22. The respondent counsel argument was that the company is established under the Companies Act. Central Government established an industrial Tribunal-cum-Labour Court at Hyderabad for adjudication of industrial disputes. The petitioner filed this petition in this court is not maintainable under law, hence, the same may be dismissed on that ground alone. The petitioner had put only 82 days of attendance during the year 2002 without leave or permission. The petitioner was issued with a charge sheet

under clause No. 25.25 of standing orders of the respondent company for his misconduct of habitual absenteeism and the petitioner was suspended. The petitioner submitted his explanation stating that due to his father's suffered from paralysis he had not attended duty and requested the company to excuse him for this time. As his explanation was not satisfactory a domestic enquiry was ordered and issued enquiry notice and conducted the enquiry. The petitioner attended the enquiry and participated in the domestic enquiry. The charges were explained to the petitioner and he has no objection to record the proceedings of the enquiry in English language. He did not take the assistance of any defence and he accepted the charges levelled against him and pleaded guilty of misconduct. He was also not chooses to cross-examine the management witnesses during the domestic enquiry. In the domestic enquiry, he clearly stated and he admitted that he had absented from his duties habitually from January, 2002 to December, 2002 due to ill-health. The petitioner did not give any explanation to the charge sheet served on him. Petitioner also did not filed any documents to prove that he and his father suffered ill-health. The petition gave assurance to the respondent that he will attend regularly without absenteeism. On his undertaking he was kept under observation, but the petitioner failed to attend to his duties in spite of his undertaking given. The charges framed against him were proved in the domestic enquiry. Respondent issued show cause notice by enclosing the copies of enquiry report and enquiry proceedings. The petitioner gave the reply to the show cause notice. The petitioner failed to improve his performance in spite of giving fair opportunity and his past performance is also not satisfactory. Hence, the respondent company constrained to dismissal the service of the petitioner. The petitioner concealing all the above facts filed this petition. Hence, he prayed this court to dismiss the petition in the ends of justice; else the respondent company suffers from irreparable loss.

23. From the petitioner's claim statement and on its perusal and also the arguments of the respondent counsel, the following issue is framed as preliminary issue for determination.

Whether the enquiry was conducted, turning a deep ear to the petitioner's explanation.

24. As per the above, the respondent counsel argument was that the petitioner is habitual absenteeism without obtaining any prior permission from the authorities concerned and his absconding from duties. The petitioner also did not filed any documents that his father was suffered with paralysis and he attended to look-after him. The respondent followed the procedure of principles of natural justice by issuing the charge sheet by sending a notice of enquiry to the petitioner and he was also participated in the enquiry and enquiry he admitted the guilt and he was also given and undertaking stating that the hereafterwards he will not be absented to his duties. He was also given family

counselling. Even then, he was continuing to absent. During the observation period also he failed to attend to his duties. He was also given fair opportunity to defend his case in the domestic enquiry. After issuing show cause notice to the petitioner, the petitioner also gave the reply. The respondent was not satisfied with the reply given by the petitioner. The respondent followed the principles of natural justice i.e., by issuing notice and conducting enquiry by giving an opportunity to the petitioner. The petitioner did not raised any objection or any dispute, so the petitioner did not got any prejudice in conducting the enquiry. Hence, I did not find the petitioner was not prejudice in any way on account of conducting enquiry by the respondent. It cannot be said that the enquiry was conducted in gross violation of principles of natural justice. The findings recorded by the respondent is perfectly legal and valid. It need not be interfered with by this court. So, the petitioner's contention will be refused. The court thinks the case of the petitioner is not at all real one substance or that there is substantiate possibility of success or that the result will be not different even if natural justice is followed. Hence, the domestic enquiry conducted is legal, proper, valid and binding on the parties.

25. The misconduct committed by the petitioner is unauthorised absence, as he did not obtain any prior permission from the main authorities for absconding from his duties is undoubtedly and irregularity and serious in nature. In the circumstances, this court cannot take any lenient view and substitute its opinion for that of the respondent. The findings of the respondent even on the question relating to the proportionality of punishment is based upon the evidence available on record. In this case, the petitioner did not turned-up to the court and he did not filed any documents to prove that his father suffered ill-health and taken treatment. The past record of the petitioner also shows his habitual absenteeism in attending to his duties.

26. In my considered opinion that the findings taken by the respondent does not suffer from any error whatsoever. Having regarding all the aspects and circumstances of the case, the punishment imposed by the management is not disproportionate requiring any interference in exercising the discretion u/sec.11-A of the I.D. Act.

27. From the respondents counsel argument the petitioner in failed to report for duty and remaining absent without obtaining leave, had acted in a manner irresponsibility and unjustifiedly that on the findings of the enquiry officer, the charge was proved that the petitioner remained absent without obtaining leave in evidence. The respondent company has not resorted to extreme punishment at the every first instance of absenteeism of the petitioner-workman. The respondent company has tolerated him for quite some time and ultimately when there

was no improvement in his behaviour to attend the duties, the respondent has no other go except to dismiss the petitioner from the service.

28. As per the claim statement allegations, the contention of the petitioner that the punishment of dismissal of the petitioner from service of the company is totally disproportionate to the proved misconduct of unauthorised absenteeism of the petitioner. The disciplinary authority failed to advert itself to the aspect of the matter. I find it difficult to accept the submissions made by the petitioner in his claim statement. In this case, the petition admitted the unauthorised absenteeism in the enquiry proceedings. The petitioner also did not turn-up to the court to prove his case. The petitioner also did not file any documents to prove that he had taken treatment from the hospitals.

29. In my view his court would have no jurisdiction to show any sympathy for such a workman who is guilty of unauthorised absence should not be shown any leniency especially when he continuous to absent himself and for long period. The enquiry officer and the disciplinary authority both have considered all the facts and circumstances of the case and have correctly recorded their findings against the petitioner. I do not find any serious illegality or any infirmity in the order of the respondent. Hence, I therefore dismiss the petition.

In the result, the petition is liable to be dismissed and is accordingly dismissed. But in the circumstances, no costs.

Typed to my dictation by Typist directly, corrected and pronounced by me in the open court on this, the 23rd day of December, 2006.

M. SHANMUGAM, Chairman-cum-Presiding Officer

Appendix of Evidence

Witnesses examined

For workman:—	For Management:—
—Nil—	—Nil—

Exhibits

For Workman :—	For Management:—
—Nil—	—Nil—

नई दिल्ली, 28 मई, 2007

का. आ 1818.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीग्राफ ऑफिस, रामपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, नई दिल्ली के पंचाट (संदर्भ संख्या 95/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-2007 को प्राप्त हुआ था।

[सं. एल-40012/282/2000-आई आर (डी.यू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 28th May, 2007

S.O. 1818.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 95/2000) Government Industrial Tribunal-cum-Labour Court No. II, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telegraph Office, Rampur and their workman, which was received by the Central Government on 28-5-2007.

[No. L-40012/282/2000-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE THE PRESIDING OFFICER CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR, COURT-II,
NEW DELHI**

PRESIDING OFFICER: R.N. RAL **LD. No. 95/2000**

PRESENT:

Shri Bhawani Shankar Sharma —1st Party

Shri V.S.R. Krishna —2nd Party

IN THE MATTER OF:—

Shri Ram Niwas,
S/o. Shri Rattan Lal,
R/o. Mohalla Beldaran,
Rampur (UP),
PIN - 144901.

Versus

The Officer Incharge,
Telegraph Office, Rampur (UP),
PIN - 244901.

AWARD

The Ministry of Labour by its letter No. L-40012/282/2000-IR (DU) Central Government dt. 29-8-2000 has referred the following point for adjudication.

The point runs as hereunder:—

“Whether the action of the management of Vibhagiya Tar Ghar merged with Telecom Department, Rampur in regard to terminating the services of Shri Ram Niwas, Part Time Sweeper w.e.f. 16-5-1999 is just, fair and legal? If not, to what relief the workman is entitled and from what date?”

The workman applicant has filed statement of claim. In the statement of claim it has been stated that the workman was initially appointed as a Sweeper on part time basis on 7-3-1989 by the Opposite Party and was posted in the Telegraph Office at Rampur. The related letters are enclosed at Annexures “D” and “E” respectively.

That the workman continued to perform his duty with full devotion, dedication up to 15-5-1999 without any

complaint either from the public or his superiors and colleagues. Thus the workman remained in service of Opposite Party for more than 10 years.

That it is unfortunate that the workman was not allowed to perform his duties after the aforesaid date without any notice and thus his termination from service was illegal and arbitrary.

That another unfortunate aspect is that a new hand was employed in his place while the workman was ousted from the department of Opposite Party. That the Opposite Party admitted during the proceedings before the ALC(C), Dehradun that the workman was initially appointed by Vibhagiya Tar Ghar, Rampur (UP) which was at that time independent and separate entity but later on came under the control of Telecom Divisional Manager, Rampur (UP).

That the workman comes within the purview of ID Act, 1947 and thus he is entitled for the claim as envisaged under the Act viz. his reinstatement in service with all consequential benefits of pay and seniority etc. that in the whole process from the date of appointment of worker till he was terminated from service, he had neither committed any illegality nor irregularity.

That the opposite party did not give its consent for voluntary arbitration or joint reference although the workman agreed to it. The opposite party concealed the fact that the Government of India through their Memo No. 269-13/99-STN-II dated 16-9-1999 approved the conversion of part time casual labour working for four hours or more regularized as full time casual labour. The copy of memo dated 16-09-1999 is placed at Annexure “G”.

That the workman worked with the opposite party for more than 10 years and thus he has lost his youth period to the organization. Unfortunately the workman got bitter results in as much as that he was ousted from service without assigning any reason what to talk of giving any notice. The opposite party has committed an inhuman act by ousting the workman from service and totally ignored the fate of his dependents but was thrown at the brink of starvation.

In the aforesaid circumstances, the workman respectfully prays for his reinstatement in service from the date of his termination with all consequential benefits of pay, allowances and seniority etc. It is specifically prayed that the workman may kindly be ordered to be paid the emoluments which were not paid to him for the period he had with the opposite party.

The management has filed written statement. In the written statement it has been stated that the above claim is pending before this Hon'ble Tribunal and the next date of hearing of the case is now fixed for 20-9-2005. The issue raised for adjudication by the Central Government is as to whether the alleged termination of the workman by the Vibhagiya Tar Ghar merged with Telecom District Rampur is just and proper.

That in this contention the respondents wish to bring to the notice of this Ld. Tribunal that there had been no termination of the claimant as alleged and therefore the claimant is not entitled to any relief from this Ld. Tribunal.

That as a matter of fact the claimant was engaged in the respondents' office as a part time sweeper on purely temporary basis for a period of two hours and was paid accordingly. In such circumstances for the claimant to claim permanent employment is without any basis and the relief prayed for is misconceived.

That since the claimant is only a part time worker he is not entitled to any relief prayed for. That apart it is submitted that the Vibhagya Tar Ghar merged with Telecom District Rampur on 31-12-1995 and since then the claimant is not working in the office of the respondents. The petitioners reliance on the provisions of Government of India's OM is not applicable as the petitioner was engaged and disengaged prior to the issuance of the said notification. Be as it may be it is submitted that the petitioner having been engaged on a part time basis no rights accrue to him for being permanently absorbed in the office of the respondents. It is submitted that the petitioner was not terminated as alleged but he himself stopped coming to the office and therefore the question of violation of any provisions of ID Act does not arise.

That the allegation of the petitioner/claimant that he had worked in the office of the respondents till 18-5-1999 is totally false and misleading. The petitioner was disengaged in the year 1995 itself and at the time of disengagement he was engaged only as a part time sweeper and hence no rights accrue to him to be regularized in the office of respondents.

That apart the present reference is highly belated and to this extent the claim petition is liable to be dismissed.

The workman applicant has filed rejoinder. In the rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

It becomes quite obvious from perusal of the record that this case was decided *ex-parte* and *ex-parte* award dated 29-12-2005 was sent to the Ministry of Labour for publication but subsequently the management moved an application for setting aside the *ex-parte* award within time. The *ex-parte* award has been set aside by order date 30-3-2006.

It was submitted from the side of the workman that he was engaged by the management w.e.f. 07-03-1989 as part time sweeper. He performed his duties regularly with full devotion and dedication upto 15-05-1999 without any

complaint either from the public or his superiors and colleagues. He remained in service of the opposite party for more than 10 years.

It was further submitted that OM dated 16-9-1999 approved the conversion of part time casual labours working for 4 hours or more as full time casual labours.

The workman has filed engagement letter of 4-3-1989. It has been mentioned in this letter that he was engaged for 2 hours daily.

It was further submitted that on 11-4-1994 competent authority directed the management for increasing the period of the workman. It has been mentioned in this engagement letter that the workman should be engaged in case of weekly rest of the Chowkidar or some Group-D Staff goes on leave. It has been also mentioned in this letter that the workman should be given 5 hours work daily. The workman has filed OM dated 16-9-1999 and it has been directed in this OM that part time casual labourers working for 4 hours or more should be converted into full time casual labourers.

It was submitted from the side of the management that the workman has not filed any document regarding his employment till 1999. He was initially engaged for 2 hours daily and from 11-4-1994 he has been given work in stop gap arrangement. It has been specifically mentioned in the letter dated 11-4-1994 that this workman should be given work for 5 hours during the rest period of Chowkidar or leave period of some Group - D employee. It indicates that this workman was not even casual part time worker. It has been directed by letter dated 11-4-1994 that he should be engaged as stop gap arrangement. The workman has not filed any document to show that he has worked continuously from 1989 to 1999.

He has filed only two documents one relating his engagement as part time sweeper for 2 hours daily. The other document filed by the workman regarding his employment is letter dated 11-4-1994 by which it has been directed that the workman should be engaged as stop gap arrangement in view of some contingency.

The workman has filed no document to show that even his stop gap arrangement continued up to 16-5-1999.

The workman has stated that he has worked continuously from 7-3-1989 to 16-5-1999. He has filed no document regarding his period of employment. Engagement letter establishes that he was engaged for a period of 2 hours on daily wages basis. Letter dated 11-4-1994 shows that the workman was given engagement when Chowkidar or Group -D employee was on leave.

The workman was not in employment prior to OM dated 16-9-1999. Had he been in employment he would have filed application for being converted into a full time casual labour. The workman has not filed copy of any application addressed to the management for converting him to full time casual labour. The workman has not filed

any document to establish the fact that he worked even as part time sweeper up to 16-5-1999. He has filed only affidavit in evidence. It is settled law that the claim of the workman cannot be decided on the basis of only his affidavit. He has not filed any cogent documentary evidence in support of his claim statement. The averments of the claim do not stand established for lack of documentary evidence.

The reference is replied thus:

The action of the management of Vibhagiya Tar Ghar merged with Telecom Department, Rampur in regard to terminating the services of Shri Ram Niwas, Part Time Sweeper w.e.f. 16-5-1999 is just, fair and legal. The workman applicant is not entitled to get any relief as prayed for.

The award is given accordingly.

Date : 16-5-2007

R. N. RAI, Presiding Officer

नई दिल्ली, 28 मई, 2007

का. आ. 1819.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.पी.डब्ल्यू. डी. के प्रबंधन के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, नई दिल्ली के पंचाट (संदर्भ संख्या 5/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-2007 को प्राप्त हुआ था।

[सं. एल-42011/92/2006-आई आर (डी.यू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 28th May, 2007

S.O. 1819.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 5/2007) Government Industrial Tribunal-cum-Labour Court No.II, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CPWD and their workmen, which was received by the Central Government on 28-5-2007.

[No. L-42011/92/2006-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE THE PRESIDING OFFICER CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR, COURT-II, NEW DELHI**

PRESIDING OFFICER : R.N.RAI

LD. No. 5/2007

IN THE MATTER OF:

Shri Laxman Shah and Anr.

C/o. The Secretary,

CPWD Mazdoor Union,

55-A, E.C. Road, Subhash Road,

Dehradun (Uttarakhand)

Versus

The Executive Engineer (Civil),
CPWD,
Central Division No. 20,
Subhash Road,
Dehradun (Uttarakhand)

AWARD

The Ministry of Labour by its letter No.L-42011/92/2006-IR (DU) Central Government dt. 12-2-2007 has referred the following point for adjudication.

The point runs as hereunder :—

“Whether the action of the management of CPWD in not granting ACP upgradation I and II on completing 12 and 24 years of service, in scale of pay of Rs. 2610-4000 and 2750-4400 respectively to their Workmen Shri Laxman Shah S/o. Shri Sital Shah and Shri Anil Kumar Chopra, S/o. Shri Tilak Raj is legal and justified? If not, to what relief the workmen are entitled to and from which date.”

The workmen applicants have not filed claim statement. It was submitted from the side of the management that the workmen have been provided the scale demanded by them, so they have not filed claim. The copy of the order regarding upgradation in the scale of Rs. 2650-65-3300-70-4000 have been filed.

No dispute award is given.

Date : 15-5-2007

R. N. RAI, Presiding Officer

नई दिल्ली, 28 मई, 2007

का. आ. 1820.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टी.डी.ई., बी.एस.एन.एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, नई दिल्ली के पंचाट (संदर्भ संख्या 24/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-2007 को प्राप्त हुआ था।

[सं. एल-40012/156/2004-आई आर (डी.यू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 28th May, 2007

S.O. 1820.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 24/2005) Government Industrial Tribunal-cum-Labour Court No.II, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of T.D.E., B.S.N.L. and their workman, which was received by the Central Government on 28-5-2007.

[No. L-40012/156/2004-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE**BEFORE THE PRESIDING OFFICER, CENTRAL
GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR, COURT-II,****NEW DELHI****Presiding Officer : R.N. Rai. I.D. No. 24/2005****Present : Sh. R.S. Seingar 1st Party
Sh. Dinesh Agnani 2nd Party****IN THE MATTER OF :****Shri Inder Singh,
S/o. Shri Surta Ram,
R/o. Vill. Sudkain Kalan,
Tehsil Narwana,
Distt. : Jind (Haryana)****Versus**

- 1. The Sub Divisional Officer (Telephone),
Bharat Sanchar Nigam Limited,
Narwana, District : Jind (Haryana)**
- 2. The T.D.E.,
Bharat Sanchar Nigam Limited,
Jind (Haryana)**

AWARD

The Ministry of Labour by its letter No. L-40012/156/2004 -IR (DU) Central Government dt. 22-03-2005 has referred the following point for adjudication.

The point runs as hereunder:

"Whether the action of the management of BSNL, Jind in terminating the services of Shri Inder Singh, S/o. Shri Surta Ram, daily wages worker w.e.f. 01-03-2002 is just and legal? If not, to what relief the workman is entitled."

The workman applicant has filed statement of claim. In the statement of claim it has been stated that the applicant was employed with the above named respondent No.1 since 1991, 1992 as a regular (Welder) and he had regularly worked upto 28-02-2002 and his last drawn wages were Rs.1500 per month.

That the applicant always performed his duties with hard labour and due diligence, never given any chance of complaints to the respondents nor he was chargesheeted. Applicant has worked under kind control of many SDOs i.e. Mr. Ishpal Dhillon, Mr. V.P. Singh, Tyagi Sahab and lastly with Mr. Amar Singh Malik.

That in spite of this the respondents did not give any legal facilities to the applicant i.e. appointment letter, attendance card, pay slip, leave wages, medical leaves, uniform, bonus etc. which were orally demanded by the applicant several times to the respondents, but the respondents did not provide the same.

That the applicant demanded his legal facilities again and again from the respondents, then the respondents

illegally terminated the service of the applicant on 01-03-2002 without any notice or information. Retrenchment compensation and notice pay was not paid to the applicant by the respondents.

That after his termination the applicant visited the office of the respondents various times for joining his duties but the respondents misbehaved with the applicant and refused to take him on duty.

That thereafter the applicant sent a demand letter dated 20-09-2002 to the respondents which have been served upon the respondent but the respondents have not paid any heed to the request of the applicant and thereafter the applicant sent a second demand letter dated 08-09-2003 by Registered A/D post to the respondents but the management also did not give any reply of the same.

That thereafter the applicant filed an application for reinstatement in service before the office of the ALC (C), S.I. overmain shopping centre NH-IV, Faridabad but the management did not agree to concile the above said matter then the ALC(C), Faridabad referred this matter before this Hon'ble Tribunal for adjudication.

That the above said acts of the respondents are highly illegal unjust, improper and against the provisions of Industrial Disputes (Central) Rules, 1957.

That the applicant is unemployed since his illegal termination by the respondents. The applicant is a very poor person and has no other source of income to maintain himself and his family members. Due to the termination of the applicant from his service the applicant and his family members are living in starvation.

That the workman applicant further pray that an award may kindly be passed in favour of the applicant for reinstatement in old and devoted service alongwith full back wages and 18% interest may also be awarded to the applicant. And also award all the consequential benefits to the applicant in the interest of justice.

The management has filed written statement. In the written statement it has been stated that the present reference is without application of mind in as much as the appropriate government has made the present reference without appreciating the fact that Shri Inder Singh was never appointed by the answering management as such while referring the disputes the appropriate government has erred in coming to the conclusion that there has been termination of services of Shri Inder Singh when admittedly no documents whatsoever has been placed on record to show the alleged termination of Shri Inder Singh as such the present reference is liable to be answered in negative.

That the present claim is bad for delay and latches as admittedly, it has been alleged by Shri Inder Singh that he was working regularly upto 28-02-2002 and has raised present dispute only in the year 2004, which clearly establish that the present petition is not only bad for delay

and latches but also merits no consideration in as much as there has been no relationship of employer and employee between Shri Inder Singh and the respondents at any point of time. As such also, the present reference is liable to be answered in negative.

That the statement made in the claim petition are not only vague and do not disclose any fact and infact Shri Inder Singh has not annexed any document in support of the statements regarding the alleged employment with the respondents. As such also the present claim petition is liable to be rejected.

That the respondent Bharat Sanchar Nigam Limited came into existence only w.e.f. 01-10-2000. It is the case of the petitioner that he was employed by the Respondent No.1 since 1991-1992, which clearly shows that the statements made in the present statement of claim are false, mischievous and have been made with *malafide* intention and ulterior motive. As such also the present claim petition is liable to be dismissed.

That it has been alleged by the petitioner that he was working as a regular employee since 1991-1992 but no documents in support thereof has been placed on record to establish the said fact. It is submitted that the said Shri Inder Singh has neither placed on record the letter of appointment nor the alleged letter of termination, as such the present claim is misconceived and has no basis whatsoever and the present petition is liable to be dismissed on this sole ground.

That it is specifically denied that Shri Inder Singh was employed with the Respondent No.1 since 1991-1992 as a regular employee as alleged or otherwise. It is submitted that since Shri Inder Singh was never regular employee, there was no question of his working till 28-02-2002 or his last drawn wages being Rs.1500 as alleged or otherwise. The statement made in para under reply are false and denied.

That it is specifically denied that the applicant was performing his duty with hard labour and due diligence. It is submitted that as the applicant was never employed with the answering respondent, there was no question of his performing his duty with hard labour and due diligence as alleged or otherwise. It is specifically denied that Shri Inder Singh worked under the control of SDOs i.e. Harpal Dhillon, Mr. V.P. Singh, Tyagi Sahib and Shri Amar Singh Malik as alleged or otherwise.

That it is submitted that since Shri Inder Singh was never employed by the answering respondent there was no question of giving any legal facility i.e. appointment letter, medical leave, attendance card, pay slip, leave wages, medical leave, uniform and bonus etc. as alleged or otherwise. It is further submitted that since Shri Inder Singh was never employed by the answering respondent there was no question of making oral admission as alleged in para under reply.

That it is submitted that since Shri Inder Singh was never employed with the answering respondents there was no question of demanding legal facilities as alleged or otherwise. It is submitted that as Shri Inder Singh was never employed by the answering respondents as such there was no question of illegal termination of services also of Shri Inder Singh on 01-03-2002 without any notice or information, hence Shri Inder Singh was also not entitled for any retrenchment compensation or notice pay as alleged.

That it is denied that after the alleged termination Shri Inder Singh visited for joining his duty and the respondents misbehaved with him as alleged and refused to take him on duty. It is submitted that statement made in the claim petition and as well as in the present para are after thought as is apparent from the fact that though Shri Inder Singh alleged that respondents have misbehaved, however, Shri Inder Singh has failed to give the name of the concerned persons, which is clearly established that the statement made in para under reply as well as in the claim petition are false and baseless.

That it is specifically denied that any notice was served by Shri Inder Singh upon the respondents as alleged or otherwise. It is submitted that as there was no relationship of employer and employee between Shri Inder Singh and the respondents, there was no question of replying to any alleged notice even if the same was written by Shri Inder Singh.

That filing of application for reinstatement in service before the ALC(C), Faridabad is a matter of record. However, it is submitted that since there was no relationship of employer and employee between the answering respondents and Shri Inder Singh there was no question of any conciliation taking place between the parties. The matter being referred for adjudication is a matter of record.

That it is specifically denied that the acts of the respondents as alleged in the statement of claim are highly illegal, unjust, improper and against the provisions of Industrial Disputes (Central) Rules, 1957. It is submitted that since there was no relationship of employer and employee between Shri Inder Singh and answering respondents there was no question of any alleged acts being illegal or unjust as stated in para under reply.

That it is submitted that the applicant Shri Inder Singh was never employed by the answering respondents as such there was no question of his services being illegal terminated or him being under unemployment since then. The statement made in para under reply are without any basis whatsoever.

It is most respectfully prayed that this Hon'ble Tribunal may be pleased to dismiss the present statement of claim with cost and pass such other or further order which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.

The workman applicant has filed rejoinder. In the rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

It was submitted from the side of the workman that the workman was engaged as casual labour/daily wager in the year 1991-1992 and worked continuously up to 28-02-2002. He has performed 12 years of regular service on daily wage basis. The workman has worked under SDOs namely Shri Ishpal Dhillion, Mr. V.P. Singh, Mr. Ajay Shah and Mr. Amar Singh Mallick. His services were terminated on 28-02-2002 without making payment of retrenchment compensation and one month's pay in lieu of notice.

It was submitted from the side of the management that the workman has filed only 2 (two) documents i.e. Identity Card allegedly issued by the BSNL and Photo of Garlanding some authority. No other document has been filed by the workman.

B - 36 is the Identity Card. There are interpolation and overcuttings in this document. This document does not bear the seal of the respondents. It is not reliable. The other document B - 37 is of Garlanding some authority by the workman. No specific names have been mentioned. The management witnesses have stated that they do not know the person who has been shown to be garlanded by the workman.

It was further submitted that the workman himself has stated that he is uneducated and he was given appointment by Shri Jai Prakash, Hon'ble M.P. of the area. The workman has not even disclosed as to who engaged him. An M.P. is not supposed to engaged a casual labour.

It was further submitted that the management has produced evidence of Mr. Dhillion and Mr. Tara Chand Kundu. The workman has stated that he worked under them. These witnesses have denied that the workman ever worked with the management. The name of Mr. Dhillion and Mr. Tara Chand Kundu have been mentioned by the workman and it has been stated that he worked under these two SDOs but these witnesses have refused that the workman worked under them. There is absolutely no evidence either documentary or oral in support of the case of the workman.

After conclusion of the evidence an application has been filed for directing the management to file documents. The particulars of the documents have not been mentioned and the management has stated that the documents mentioned cannot be produced as they are very much voluminous. The workman has demanded attendance register, accounts books etc. No specific document has been mentioned, so it was not possible for the management

to produce those documents.

The workman has no case at all. He has miserably failed to prove the averments of his claim statement either by oral evidence or by documentary evidence. It was the duty of the workman to prove the contents of his claim statement either by oral evidence or by documentary evidence but he has failed to do so, so he is not entitled to get any relief.

The reference is replied thus:

The action of the management of BSNL, Jind in terminating the services of Shri Inder Singh, S/o. Shri Surta Ram, daily wages worker w.e.f 01-03-2002 is just and legal. The workman applicant is not entitled to get any relief as prayed for.

The award is given accordingly.

Date : 15-05-2007

R.N. RAI, Presiding Officer

नई दिल्ली, 28 मई, 2007

का. आ. 1821.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 125/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-2007 को प्राप्त हुआ था।

[सं. एल-40012/94/98-आई आर (डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 28th May, 2007

S.O. 1821.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 125/99) Government Industrial Tribunal-cum-Labour Court No.1, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 28-5-2007.

[No. L-40012/94/98-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI RAJESH KUMAR, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH

Case No. I.D. 125/1999

Shri Mehar Chand Son of Shri Jitwar Singh,
V & P.O. Khabal. The Chirgoan,
District Shimla

.....Applicant

Versus

The General Manager,
Telecom, Sanjay Sadan Choete,
Shimla (Himachal Pradesh)

.....Respondent

APPEARANCES

For the workman : Workman Shri Mehar Chand
in person
For the management : Shri Rahul Mahajan Advocate
for Shri Manoj Chauhan

AWARD

Passed on 13th April, 2007

Central Government vide notification No. L-40012/94/98-IR (DU) dated 6-5-1999 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the Division Engineer Telecom, Shimla and Sub-Division Officer (T) Rohru in terminating the services of Shri Mehar Chand son of Shri Jitwar Singh is legal and justified ? If not, to what relief the workman is entitled ?"

2. Today the case is fixed at Camp Court Shimla for evidence of the workman. Workman today appeared and made a statement that he is the petitioner in this case and at present he is fairly settled. Hence he does not want to proceed further with this present reference any more and the same may be closed and return the same and he is making the statement voluntarily of his own. Proxy counsel for the management also made a statement that management has no objection and request of the workman may be allowed.

3. In view of the statements of the workman and the proxy counsel for the management, the present reference is returned to the Appropriate Government as withdrawn. Central Government be informed. File be consigned to record.

Chandigarh Camp, Shimla

13-4-2007

RAJESH KUMAR, Presiding Officer

नई दिल्ली, 29 मई, 2007

का. आ. 1822.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय पुणे के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-5-2007 को प्राप्त हुआ था।

[सं. एल-40012/291/99-आई आर (डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 29th May, 2007

S.O. 1822.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Labour

Court Pune as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 29-5-2007.

[No. L-40012/291/99-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI V.M. KAKADE,
PRESIDING OFFICER
2ND LABOUR COURT, PUNE

Reference (I.D. A.) No. 06 of 2000

Between :

The Divisional Engineer,
Telecom Department,
OFC Project,
Pune-37

.....First Party

AND

Shri Eknath Nanasaheb Nagwade,
Anandwadi, Post : Ajnui,
Tal. Shrigonda, Dist. Ahmednagar

.....Second Party

Coram : Shri V.M. Kakade

APPEARANCES : Mr. A.M. Joshi, Advocate
for 1st Party

Mrs. Supriya Maharolkar, Advocate
for Second Party

AWARD

(Date : 10-11-2006)

1. On failure of conciliation, this reference is preferred by the Deputy Labour Commissioner (Conciliation) under Sec. 10(1) and Sec. 12 (5) of Industrial Disputes Act, 1947 for adjudication in the matter of reinstatement with full back wages of the second party. With full back wages.
2. Second party joined services of the first party on its coaxial cable project at post Jintur from 16-6-1985. He worked continuously for more than 240 days without any leave.
3. During his service tenure and after two months of his joining, he came to know irregularities committed by the lineman and the assistant engineer incharge. The line man and the assistant engineer at the time of payment of wages were taking false thumb impressions and signatures of those labourers in front of the names of the labourers who were not actually working at the project. Thus, they were collecting money from the department for the wages by fabricating the record of more number of labourers than the number of labourers who were actually working.

4. It is contended that second party refused to give such false thumb impression, therefore, lineman and assistant engineer incharge were threatening him to dismiss from the services. So also, they were compelling second party to work more than prescribed norms.
5. It is contended that in the month of April-May, 1996, second party was working at Parbhani Camp, he informed to C.B.I. Office, Bombay and Delhi by registered A.D. Letters about irregularities being committed by the lineman and assistant engineer in charge. When they came to know about the same, they started harassing and threatening the second party and ultimately, orally terminated services of the second party on 30-6-1986 and never allowed to work though repeatedly requested.
6. It is contended that immediate after termination, second party again intimated fraudulent act of the lineman and assistant engineer incharge to CBI, Bombay and Delhi on 1-7-1996. He communicated his grievance through superiors as well as to the Chief Minister of Maharashtra and then concerned Minister. In this context, Parbhani Police Station has also recorded the second party on 26-7-1994.
7. It is contended that though requested that first party did not allow him to join the duties, hence, second party agitated his grievance by making reference to Additional Commissioner for Labour (Central Government) Pune and on failure this reference is preferred.
8. First party appeared and resisted this reference strongly by filing its W.S. at Exh. 13 and denied allegations of fraudulent misappropriation of the amount.
9. Firstly, this reference is resisted on the ground that this Court has no territorial jurisdiction as BSNL is established under Central Government.
10. Secondly, it is resisted on the ground that BSNL Organization is not an industry as defined under Sec. 2(j) of Industrial Disputes Act.
11. Thirdly, as per the contentions of the second party, his services has been terminated on 30th June, 1986 and this case is filed on 30-6-1998 i.e. almost after laps of 12 years which is way beyond the period of limitation prescribed by the Law. On this ground also reference is liable to be dismissed.
12. It is contended that groups between Aurangabad and Parbhani commission on 2nd March, 1988 and therefore, the project in question on which second party was engaged has come to an end.
13. It is contended that there is no record available in the office of the first party as the case is more than 12 years old and as per office procedure, the records

are maintained for upto 10 years only. Hence, no record is available to see whether second party was working or not. However, as per the identity card submitted by the second party, he might have worked in this department for the period mentioned in the identity card. There is no record with this office which shows that second party was removed or he himself had left the work. Hence, reference be rejected.

14. In view of pleading of the parties, following issues have been framed at Exh. 14. My findings thereon and reasons for the same are as under :

Issues	Findings
1. Does the first party prove that the reference is not tenable on account of delay ?	Yes
2. Does the second party prove that his services are terminated illegally by first party ?	No
3. Does the second party prove that he is entitled for the reliefs claimed as mentioned in the Schedule of reference ?	No
4. What Award ?	As per final order

15. To establish his claim of his reinstatement, second party filed his affidavit in lieu of examination in chief at Exh. 18 and also examined himself to prove the documents filed by him and closed his evidence by filing pursis at Exh. 34.
16. On the other hand, first party without leading evidence closed its oral evidence by filing pursis at Exh. 36.
17. With this evidence before me, I have discussed my reasons for findings are as under :

REASONS

18. **Issue No. 1 :** Maintainability of this reference is strongly resisted on the ground of delay caused in raising the dispute.
19. Ld. Advocate for the second party to explain delay about 12 years submitted that second party is not educated, illiterate and he was not aware of the procedure. He was engaged in labour work for his day today needs therefore, delay is caused. Considering this delay as reasonable delay, Ld. Advocate for the second party has placed her reliance on following cases :—
1. **Ajib Singh Vs. Sirhind Co-op. Marketing-cum-Processing Service Society Ltd., reported in 1999 (1) CLR-138 (SC).**

2. **Sharik Ahemad Sayyad Mohd. Vs. Union of India reported in 2002 (1) CLR 811 (Bombay High Court)** and submitted that Limitation Act is not applicable to the Industrial Disputes Act and relief under the act cannot be denied to the workman merely on the ground of delay.
20. On the other hand, Ld. Advocate for the first party submitted in his written argument that second party has alleged that he is terminated in the year 1986, he raised the dispute on 30-6-1998 by filing complaint to the Additional Commissioner for Labour (Central Government), Pune and thereafter reference is received by this Court on 5-1-2000. As such Industrial Dispute has not been raised within reasonable time, but raised after laps of 12 years from the date of termination. It is further submitted that no such sufficient cause is explained by the second party for an unreasonable delay caused in raising the dispute. Therefore, second party is not entitled to the reliefs claimed. Ld. Advocate for the first party has placed his reliance on a case **U.P. State Road Transport Corporation Vs. Babu Ram reported in 2006 delivered by Hon'ble Supreme Court on 4th July, 2006 and reported in 2006 (III) LLJ-15.**
21. Before proceeding to discuss the reasons in detail. I would like to mention that second party neither in his statement of claim nor in his affidavit in lieu of examination in chief has uttered a single word about delay caused in raising the dispute. Though burden is on the second party, he has neither pleaded nor sufficiently explained delay caused in raising dispute either in his statement of claim or in his affidavit in lieu of examination in chief.
22. On perusal of the facts, put forth for appreciation by the second party himself, it appears that according to him his services have been terminated w.e.f. 30th June, 1986 and admittedly, he has first time raised dispute after laps of 12 years on 30-6-1998 by filing complaint before the Additional Commissioner for Labour (Central Government), Pune. Therefore, admittedly, long delay of 12 years has been caused by the second party in raising the dispute.
23. On perusal of the statement of claim, it appears that alleged fraudulent act and irregularities committed by the lineman and assistant engineer in charge of first party, when came to the knowledge of the second party, he took lead to bring it to the notice of authorities. Not only this, but he intimated their fraudulent act to the CBI, Bombay & Delhi, Chief Minister of Maharashtra and then concerned minister of the first party. He also gave his statement for the same to the Parbhani Police Station. The way in which second party looked into the alleged irregularities of lineman and assistant engineer in charge shows that second party was well aware as to how and to where to put up his grievances.
24. On perusal of the letters filed by the second party at Exh. 24, 26, 27, 28, 29, 30 & 31 it appears that inspite of fighting for his right of reinstatement, he was engaged in throwing light on alleged fraudulent act of the lineman and assistant engineer in charge of first party.
25. On perusal of Exh.32, it appears that first time on 25-8-1998, second party put up his grievance of termination before Labour Commissioner (Central Government), Pune.
26. On perusal of the proceedings, thus, it appears that delay of 12 years is not sufficiently explained by the second party either in his statement of claim or in his affidavit in lieu of examination in chief.
27. Considering the approach of the second party to the various authorities, I am not agree with the submissions of Ld. Advocate for the second party that delay is caused because second party is not educated illiterate and not aware of the procedure. Pertinent to note that even cause of illiteracy is also not mentioned by the second party in his statement claim or in his affidavit in lieu of examination in chief.
28. Ld. Advocate for the second party has placed her reliance on :—
1. **Ajib Singh Vs. Sirhind Co-op. Marketing cum Processing Service Society Ltd., reported in 1999 (1) CLR-138 (S.C.)**
 2. **Sharik Ahemad Sayyad Mohd., Vs. Union of India reported in 2002(I) CLR 811 (Bombay High Court).** In both these Authorities, Their Lordships of Hon'ble Supreme Court and Hon'ble Bombay High Court have given relief of reinstatement by molding prayer of back wages through delay of 7 years and 9 years was caused by the worker in the authorities cited supra. Their Lordship have held that relief under the Industrial Disputes Act cannot be denied to the workman merely on the ground of delay as Limitation Act is not applicable and in case, delay is established, the Labour Court or, Tribunal can be mold relief as to back wages.
29. Contrary views of the Hon'ble Supreme Court of India is brought to my notice by the Ld. Advocate for the first party in a case **U.P. State Road Transport Corporation Vs. Babu Ram reported in 2006 delivered by Hon'ble Supreme Court on 4th July, 2006 and reported in 2006 (III) LLJ-15.** While studying for this case, I have also come across a recent Judgment of the Hon'ble Supreme Court delivered in a case **Asstt. Engineer, CAD, Kota and**

Dhan Kumar reported in 2006 (III) LLJ-12. Both above cases are recent and of Divisional Bench of Hon'ble Supreme Court of India. In both the cases, Their Lordships have held that,

"because the Industrial Disputes Act, 1947 did not provide a limitation period for raising the dispute, it did not mean that dispute can be raised at any time."

30. In both the cases, Hon'ble Supreme Court declined relief or reinstatement to the workman on the ground of delay in raising the dispute.
31. Considering the facts, in the light of ratio laid down by Their Lordships with due respect, I made ratio laid down by the Their Lordship of Hon'ble Supreme Court in recent cases
 1. **U.P. State Road Transport Corporation Vs. Babu Ram reported in 2006 delivered by Hon'ble Supreme Court on 4th July, 2006 and reported in 2006 (III) LLJ-15.**
 2. **Asstt. Engineer, CAD Kota And Dhan Kumar reported in 2006 (III) LLJ-12** as facts of delay are similar in the facts before me.
32. Considering the ratio laid down by the Hon'ble Supreme Court in the cases cited supra and facts before me, I am of the opinion that 12 years delay is caused in raising the dispute. So also delay is not sufficiently explained to my satisfaction. Hence, I am of the opinion that second party is not entitled of relief claimed due to delay caused in raising the dispute, hence, I answer this issue in the affirmative.
33. **Issue No. 2 and 3 :** Second party has stated on oath he joined services as a casual labour on 16-6-1985 the continued his work till 1986. It is further stated that he continuously worked for more than 240 days. Therefore, termination amount to retrenchment, as the provisions of retrenchment are not complied with, termination is illegal and he is entitled to reinstatement.
34. It is not necessary to mention that first party has not examined any witness, but contended that matter being old. Service record of the second party is not with the first party as it is destroyed. Therefore, first party is not aware whether he was terminated or abandoned his services. However, first party admitted the identity card issued to the second party. This is the only relevant evidence of the parties.
35. With this evidence, Ld. Advocate of second party submitted that oral evidence of the second party is supported with the documentary evidence i.e. identity card issued to the second party. This evidence is neither denied nor challenged by the first party. It is submitted that evidence or record discloses that second party has worked for more than 240 days continuously. His services are orally and illegally terminated by the first party without giving notice and without complying provisions of retrenchment. Ld. Advocate for second party has placed her reliance on a case **Bank of Baroda Vs. Vimalbhai Arjibhai reported in 2005 (II) CLR-279**, wherein it is held that facts established by the workman when has not been denied by the company and company had not examined any witness to prove the facts otherwise. Then, question of workman further proving his case does not arise because there was no challenge at all to his evidence by way of rebuttal.
36. In reply, Ld. Advocate for the first party submitted that burden is on the second party to prove that he served continuously without any break till 30-6-1986 and has completed 240 days. It is submitted that there is no documentary evidence except identity card produced by the second party. The card is not exhibited as it is not proved. Therefore, it is not correct to say that second party worked continuously for more than 240 days.
37. It is submitted that admittedly second party joined the services as a casual labourers and casual labourers are not entitled to claim regularization of his services and consequential benefits. It is further submitted that project on which second party alleged to be employed has come to an end, therefore, he is not entitled to the relief of reinstatement. Reliance is placed on **Rajendra Kashinath Vs. Union of India reported in 2006 (III) Mh. LLJ and BSNL, Pune Vs. Balasheb Maruti Poojari** wherein Hon'ble Bombay High Court has held that casual project, termination is out come of administrative exigencies and petitioner is not entitled to regularization and consequential reliefs.
38. Considering the entire evidence on record, it appears that as submitted first party is not with any document throwing light on service record of the second party, according to first party, as per Rule-69, service record upto 5 years is to be preserved and thereafter it is to be destroyed. This reference is initiated after 12 years, so service record of the second party is not available with the first party.
39. Under such circumstances, only evidence available before the Court is identity card and communication made by the second party to various authorities. On persual of those documents, it appears that second party was working as a casual labourer and the same is not disputed by the first party. It also disclosed from the identity card that second party is working co-axel cable project from 16-6-1985 till 15-6-1986. Work done by the second party is mentioned on the identity card. This shows

that second party worked for more than 240 days. Thus, fact is clear that second party joined his services on co axle cable project as casual labourer.

40. As admissions given by the second party in his cross examination. It appears that he was not appointed by following procedure on permanent post. So also, contentions of project of co axle project is not denied seriously by the second party.
41. Considering this admitted facts and ratio laid down by their Lordship in a recent cases **Rajendra Kashinath Vs. Union of India reported on 2006 (III) M.L.J. and BSNL, Pune Vs. Balasheb Maruti Pranjari**, wherein. Their Lordships have held that casual labourers are not entitled to claim regularization in the services and consequential benefits. So also, though, casual labour has worked continuously for more than 240 days, it is not necessary for the employer to issue notice or to follow the provisions of Sec. 25 (F), in my view the facts before me are somewhat similar, therefore, I have made applicable principles laid down by their Lordship to the facts before me and reached to the conclusion that termination is not illegal and second party is not entitled to the reliefs claimed. Hence, I answer the issues accordingly.
42. Ld. Advocate for the first party submitted that first party is not an industry and Industrial Disputes Act is not applicable, hence, reference is not maintainable. The same submissions are brushed aside by the Ld. Advocate for the second party by placing reliance on a well known case **General Manager Telecom Vs. S. Shrinivasan Rao reported in 1998 (I) CLR-184 (S.C.) (D.B.)**, wherein Hon'ble Division Bench of Supreme Court elaborately discussed land mark case of Bangalore Water Supply and held that :—
- "As per the case laid down in the case of Bangalore Water Supply, the Telecommunication is an industry as defined under Sec.2(j) of the Act, that it is not engaged in discharging any sovereign functions of the state and that decisions in the cases of Sub-Divisional Inspector of Post, **Valkam Vs. Theyram Joseph reported in 1996 (II) CLR-237 & Bommalay Telecom Canteen Association Vs. Union of India reported in 1997 (II) CLR 218** cannot be treated as laying down the correct law?"
43. Hon'ble Division Bench of Supreme Court in Shrinivasan's case overruling its previous judgment concluded that Telecommunication Department is an Industry. Therefore, no doubt is left that Telecommunication Department is an Industry and reference is maintainable.
44. First party has also challenged territorial jurisdiction of this Court, I am not agree with this submission

of the Ld. Advocate for second party simply because second party was working on a project and was posted by Poona Division. As per Sec. 10. reference is preferred to this Court considering the Poona Division as employer. Therefore, this Court has territorial jurisdiction.

ORDER

1. Reference is hereby rejected.
2. No order as to costs

PLACE: PUNE

DATE: 10-11-2006

V. M. KAKADE, Presiding Officer

नई दिल्ली, 30 मई, 2007

का. आ. 1823.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, नई दिल्ली के पंचाट (संदर्भ संख्या 133/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-2007 को प्राप्त हुआ था।

[सं. एल-12012/110/2003-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 30th May, 2007

S.O. 1823.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 133/2003) of the Central Government Industrial Tribunal-cum-Labour Court No. II, New Delhi as shown in the Annexure in the Industrial Dispute between the management of Syndicate Bank and their workmen, received by the Central Government on 28-5-2007.

[No. L-12012/110/2003-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR, COURT-II, NEW DELHI

Presiding Officer: R.N.RAI.

I.D.No. 133/2003

PRESENT:

SH. RAJINDER SAINI

—1st Party

SH. HARI KAPOOR

—2nd Party

IN THE MATTER OF:—

Shri Jintender Pradeep,
C-260, LIG, DDA Flats,
Loni Road, Shahdra,
Delhi-110093.

Versus

The Assistant General Manager,
Syndicate Bank,
Sarojini House, 6, Bhagwan Das Road,
New Delhi-110001.

AWARD

The Ministry of Labour by its letter No.L-12012/110/2003-IR (B-II) Central Government dt. 9-9-2003 has referred the following point for adjudication.

The point runs as hereunder :—

“Whether the action of the management of Syndicate Bank in terminating the service of Shri Jitender Pradeep, Ex. Clerk cum Cashier by imposing a punishment of termination from the service of the bank with immediate effect with three months pay and allowances in lieu of notice vide proceedings dated 29-10-2001 is just, fair and legal? If not, to what relief the workman is entitled and from which date.”

Heard arguments from both the sides on the point of quantum of punishment.

The Preliminary issue regarding fairness of the inquiry was decided on 5-3-2007. The inquiry was found proper. The order dated 5-3-2007 will form part of the award.

It was submitted from the side of the workman that punishment is excessive and shockingly disproportionate in view of the misconduct of the claimant.

It was submitted from the side of the management that the workman in the present case at the relevant time was working as Cashier at CBSE extension counter during the period from February 1992 to November 1992, the workman accepted/received cash of Rs. 77401 from different parties for the credit of CBSE account and he issued counterfoils by fixing rubberstamp, but he did not account for the same in the books of extension encounter for the credit of account of the CBSE.

Similarly the workman received the cash of Rs. 1795 vide three receipts for the examination fee, but failed to account for the same in the book of EC on 17-11-1992 and to cover up his misdeeds, he prepared duplicate challans of the same and deposited Rs. 1795 only on 21-11-1992 thereby temporarily misappropriating the same for four days. And accordingly an inquiry was conducted into the matter and the same has been held to be fair and proper by this court. The workman during the inquiry was afforded all the opportunities to defend himself.

It was further submitted that before passing the punishment order it was observed by the disciplinary authority that management is a service industry and financial institution dealing in public money, all the employees are not only required to render prompt and efficient customer service but also required to exhibit utmost honesty and integrity in the day to day transactions and functioning of the bank. The workman has resorted to activities detrimental to the interest of the bank by

misappropriating and converting to his own use Rs. 77401 and for having temporarily misappropriated Rs. 1795 for four days, which were received by him from different parties for the credit of account of CBSE while he was working as cashier.

It was further submitted from the side of the bank that the workman has not only misappropriated the money deposited by the customer but also by his acts damaged the fair image of the bank besides exposing the bank's funds to financial risk and loss. The acts of the workman have highly detrimental to the image, reputation and standing of the bank and it amounts to moral turpitude as such the bank has lost faith and confidence in his integrity, devotion to duty and his honesty, and he has become undependable and unreliable for the bank therefore cannot be continued in the service of the bank.

My attention was drawn to 2000 LLR 1271. It has been that Section 11 A - Powers of Labour Court or Industrial Tribunal to give appropriate relief in case of dismissal or discharge of workmen - Disciplinary action-Quantum of punishment Discretion of Labour Court-Labour Court giving specific finding that charge of misappropriation and breach of trust established - It, however, setting aside dismissal order and ordering reinstatement with 25% back wages while imposing penalty of stoppage of 5 increments with cumulative effect Unsustainable-Once act of misappropriation is proved, may be for a small or large amount, there is no question of showing uncalled for sympathy and reinstating employee in service - Labour Court cannot substitute penalty imposed by employer in such cases.

In case of proved misappropriation there is no question of considering past record. It is discretion of the employer to consider the same in appropriate cases, but the Labour Court cannot substitute the penalty imposed by the employer in such cases.

It is found proved that the workman has misappropriated Rs. 77401. He has committed a grave misconduct.

In the facts and circumstances of the case the punishment inflicted on the claimant is neither excessive nor disproportionate. The claimant is not entitled to get any relief as prayed for.

The reference is replied thus :—

The action of the management of Syndicate Bank in terminating the service of Shri Jitender Pradeep, Ex. Clerk cum Cashier by imposing the punishment of termination from the service of the bank with immediate effect with three months pay and allowances in lieu of notice vide proceedings dated 29-10-2001 is just, fair and legal. The workman applicant is not entitled to get any relief as prayed for.

The award is given accordingly.

Date: 17-05-2007.

R. N. RAI, Presiding Officer

नई दिल्ली, 30 मई, 2007

का. आ. 1824.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब व सिंध बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, नई दिल्ली के पंचाट (संदर्भ संख्या 113/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-2007 को प्राप्त हुआ था।

[सं. एल-12012/11/2004-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 30th May, 2007

S.O. 1824.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 113/2004) of the Central Government Industrial Tribunal-cum-Labour Court No.II, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab & Sind Bank and their workmen, received by the Central Government on 28-5-2007.

[No. L-12012/11/2004-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR, COURT-II, NEW DELHI

Presiding Officer : R.N.RAI. I.D.No. 113/2004

PRESENT: SH. V. K. AGGARWAL —1st Party

SH. RAJAT ARORA —2nd Party

IN THE MATTER OF:—

Shri Harswaroop,
S/o. Shri Hiru Ram,
H. No. C-1246, Dr. Ambedkar Nagar,
Tigari, New Delhi

Versus

The Chairman,
Punjab and Sind Bank,
21, Bank House,
Rajendra Place,
New Delhi-110008.

AWARD

The Ministry of Labour by its letter No.L-12012/11/2004-IR (B-II) Central Government dt. 23-6-2004 has referred the following point for adjudication.

The point runs as hereunder :—

“Whether the action of the management of Punjab & Sind Bank to treat the workman Shri Harswaroop, to have voluntarily retired from service under Clause 17 (a) of the Bipartite Settlement is legal and

justified ? If not, what relief is the concerned disputant entitled to .”

The workman applicant has filed claim statement. In the claim statement it has been stated that the workman was appointed in Punjab And Sind Bank as Peon w.e.f. 18-4-1975. After working at various branches he had been posted at Merchand Banking Bureau, Cannaught Circus branches since 1995.

On 24-2-1996 the workman fell sick and was given Medical Treatment at Government Hospital Bulandshahar up to 2-6-1996, thereafter he was treated at Government Hospital at Noida (U.P.). the doctor at Noida Hospital diagnosed his disease as labyrinths C. Ventigo which requires long treatment. After a long treatment he was declared fit w.e.f. 22-2-2002 by the doctor

All the necessary applications/informations together with medical certificates were sent to the bank by the workman from time to time.

That after getting fitness certificate from the doctor the workman approached the Chief Manager of MBB Dep., Cannaught Circus, New Delhi branch on 22-2-2002 to resume his duties but the Chief Manager did not allow him to join. The Chief Manager verbally informed that the services of the workman had been terminated by the Bank. No reason was given by the Chief Manager.

When the Chief Manager did not allow the workman to join his duties, the workman approached the Dy. General Manager (Personal) on 25-2-2002 and requested him to take him back into service. He again sent his representation to the Chief Manager, MBB, Connaught Circus under registered post on 7-3-2002 but no response was received from the Management.

Having failed to persuade the management, the workman served a demand notice dated 19-12-2002 to the Chairman to take him back into service.

That finding no reply/response to or action on his demand, he raised an industrial dispute in the matter before the Asstt. Labour Commissioner, New Delhi. During the Conciliation Proceedings the Management submitted a letter dated 17-2-2003 in response to his letter dated 19-12-2002 informing the workman that his service had been terminated under Para 17A bipartite settlement by the Disciplinary authority. It is pertinent to mention that no letter was received by the workman earlier to this effect.

That on failure of conciliation proceedings, the dispute has been referred for adjudication to this Hon'ble Tribunal.

That the provision of voluntary cessation of employment as provided under clause 17 of 5th Bipartite Settlement dated 10-8-89 have been altogether deleted vide clause No. 33 of 7th Bipartite Settlement dated w.e.f. 1-11-1997. There is no provision of voluntary cessation of employment in Banking Industry after 1-11-1997.

That clause 17 of Fifth Bipartite Settlement dated 10-4-1989 which has been deleted by 7th Bipartite Settlement as stated in Para 3 stated as below:

"17 voluntary cessation of employment by the Employees:

The earlier provisions relating to the voluntary cessation of employment by the employee in the earlier settlements shall stand substituted by the following :

When an employee absents himself from work for a period of 90 or more consecutive days, without submitting any application for leave or for its extension or without any leave to his credit or beyond the period of leave sanctioned originally/subsequently or when there is a satisfactory evidence that he has taken up employment in India or when the management is reasonably satisfied that he has no intention of joining duties, the management may at any time thereafter give a notice to the employee at this last known address calling upon him to report for duty within 30 days of the date of notice, stating *inter-alia*, the grounds for coming to the conclusion that the employee has no intention of joining duties and furnishing necessary evidence, where available. Unless the employee reports for duty within 30 days of the notice or gives an explanation for his absence within the said period of 30 days satisfying the management that he has not taken up another employment or avocation and that he has no intention of not joining duties, the employee will be deemed to have voluntarily retired from the Bank's service on the expiry of the said notice. In the event of the employee submitting a satisfactory reply, he shall be permitted to report for duty thereafter within 30 days from the date of the expiry of the aforesaid notice without prejudice to the Bank's right to take any action under the law or rules of service.

That according to clause 17 of Vth Bipartite Settlement, the employee will be deemed to have voluntarily retired from the Bank's Service only after fulfilling following requirements:—

- (a) The employee must be absent from work for a period of 90 or more days.
- (b) There should be satisfactory evidence that he has taken up employment in India or he has no intention of joining duties.
- (c) The management must have issued a notice to the employee calling upon him to report for duty within 30 days of the date of the notice or give an explanation for his absence.
- (d) The notice must have stated the grounds and necessary evidence for coming to the conclusion that the employee has no intention of joining duties and he has not taken up another employment or avocation.
- (e) The employee does not report for duty within 30 days of notice or give an explanation for this absence satisfying the management that

he has not taken up another employment or avocation and that he has no intention of not joining.

The workman remained on leave on account of his illness and not intentionally. The management was well informed in this regard. Leave applications along with medical certificates were sent from time to time. It shows his willingness to resume his duties after getting fit for it.

The Management did not issue any letter / notice as required under clause 17(a) of the bipartite Settlement furnishing any reason or ground or evidence for coming to the conclusion that the workman had no intention of joining duties and/or has taken up other employment in India. Whatever letters received by the workman were in respect of his illness and to get himself checked up by the Bank's Doctor but the Management never provided the address of the Bank Doctor. However the workman replied all the letters which he received and explained the cause of his absence.

That the workman was not given a reasonable opportunity of presenting his case before terminating his services of the workman concerned. It is illegal and unjustified which deserves to be set aside by the Hon'ble Tribunal.

It is therefore prayed that the Hon'ble Tribunal may be pleased to make an award setting aside the management to reinstate the workman with full back wages.

The management has filed written statement. In the written statement it has been stated that before replying parawise to the statement of claim, the management states that the claimant has himself ceased to be in the services of the management bank in terms of Para 17(a) of the BPS which provides for voluntary cessation of employment of employees. It is stated that the claimant who was an employee of the respondent bank had remained absent without any permission/leave/intimation from 24-02-1996 and a medical certificate dated 5-06-1996 was given by him stating therein that he was suffering from some disease from 1-03-1996 to 2-06-1996 and advised rest. The claimant had not reported for duties on 3-06-1996 nor did he apply for any leave or informed the bank about his sickness and thereafter registered letters were sent to him on 30-12-1995, 26-04-1996, 6-07-1996 and 21-08-1996. The claimant did not reply to any of these letters, he was also advised to present himself before the Bank's Doctor for examination which also he did not do. Thereafter, a final notice under Clause 17 of the BPS was sent to him on 17-10-1996 to which also he did not reply and therefore in accordance with the provisions of BPS, the claimant has ceased to be in the service of the management. The claimant was duly informed about the same vide letter dated 13-01-1998 of the management.

That representation and medical certificates were received from him. However, the claimant had already ceased

to be in the services of the management bank in the year 1998.

It is submitted that the claimant had never informed the bank about the disease from which he was suffering. In fact only the following medical two certificates (if they can be called as such) were submitted by the claimant.

1. Certificate dated 5-06-1996 of Dr. M.M. Aggarwal from 1-03-1996 to 2-06-1996.
2. Certificate dated 21-02-2002 of Dr. S.P. Jain stating that the claimant was suffering from the said disease from 6-07-2000 and was advised rest for 80 weeks from 6-07-2000 to 21-02-2002.

It has already been explained in the foregoing paragraphs that various registered letters dated 26-04-1996, 6-07-1996 and 21-08-1996 were sent to him but he did not reply to the same and a final notice under clause 17 of the BPS was sent to him on 17-10-1996. Even to this notice, no reply was received. In fact, the claimant in this para has stated that he remained in the hospital from 24-02-1996 to 2-06-1996 and thereafter he was getting treatment at the Noida Hospital and he was declared fit on 22-02-2002. It is vague and unimaginable that someone would remain sick for 8 long years without any information/intimation to the bank.

It is wrong and denied that any medical certificate except what has been admitted were received by the management. It is wrong and denied that any medical certificate was sent to the management from time to time.

It is not clear as to what was the disease from which the claimant was suffering. In fact in none of the medical certificates the disease of the claimant has been mentioned and it is unknown as to what is the nature of ailment of the claimant which forced him to be in the hospital for long 8 years. The authenticity and genuineness of the medical certificate is itself in doubt/cloud. It is further submitted that the claimant had already been informed on 13-01-1998 that he had voluntarily ceased to be in the employment in terms of clause 17 of the BPS.

It is further stated that the deletion of the provision of the BPS would not make any difference to the case of the claimant. It is but natural that the workman was not interested in joining his duties and had remained unauthorisedly absent for long period of time as far as 8 years.

It is further stated that various letters were issued to the claimant and he did not reply to the same. It is only thereafter that the provision of Regulation 17 of the BPS had been resorted to. It is wrong and denied that the workman got himself checked by the Bank's Doctor as alleged. It is also wrong and denied that the claimant had replied to the various letters written to him by the management.

It is stated that a reasonable and fair opportunity had been given to the claimant and having failed to avail of those opportunities, the provisions of Regulation 17 of the BPS have been invoked.

It is unbelievable that workman can remain absent for such long years i.e. for 8 years without any intimation/information to the management. It is also not clear what was the disease from which he was suffering. In these circumstances, the action of the management in applying regulation 17 of the BPS is perfectly legal and just. It is also stated that even earlier the claimant was in the habit of remaining absent. The bank had granted him leave without pay for a period of 893 days during the period 1991-1995. He started absenting from his duties w.e.f. 25-10-1995 and was sent telegrams by the bank on 6-11-1995 & 6-12-1995 directing him to join duties. He was thereafter issued letter dated 30-12-1995 to present himself and explain his absence.

It is, therefore, respectfully prayed that the pending reference may be answered in favour of the management.

The workman applicant has filed rejoinder in the rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

It was submitted from the side of the workman that he fell ill on 24-02-1996 and was given treatment at Government Hospital, Bulandsahar (UP) to 2-06-1996 and thereafter he was treated in Government Hospital at Noida (UP). The Doctor at Noida Hospital diagnosed his disease as Labyrinth—C Vertigo which requires long treatment. The workman was declared fit w.e.f. 22-02-2002 to resume his duty by the Doctor.

It was further submitted that the workman approached the bank on 22-02-2002 for resuming his duties but he was verbally informed that services of the workman have been terminated by the bank. The management adopted an adamant attitude, so the workman went in Conciliation Proceedings and the case was referred to this Tribunal. The workman has been ordered illegal voluntary retirement from employment in breach of the provisions of Clause 17 of the Vth BPS.

It was further submitted that the workman was not in a position to resume his duties. He had no intention of not resuming his duties. He sent applications with medical certificates for extension of leave again and again. He has not taken up any employment or avocation and he has no intention of not joining.

It was further submitted from the side of the management that the workman was issued registered letters dated 30-12-1996, 24-04-1996, 6-07-1996, 21-07-1996. These

letters were served but the workman did not turn up. He was advised to get himself examined by the bank's Doctor but he did not do so. He remained absent for long 8 years without any sanctioned leave. Ultimately he was served 30 days notice for giving satisfactory explanation and reporting to duty but the workman did not submit satisfactory explanation and he did not turn up. So the order of voluntary cessation of service was passed by the competent authority and the workman was informed by letter dated 13-01-1998.

It was further submitted that the workman was not really ill. He has not filed any medical certificate showing his long and serious illness. He did not turn up despite several registered letters, so it was presumed that he had no intention of joining duty. The order of voluntary cessation from service is just and legal.

It was further submitted that the workman submitted only 2 certificates. Certificate dated 5-6-1996 of Dr. M.M. Aggarwal for illness from 1-3-1996 to 2-6-1996 and certificate dated 21-2-2002 of Dr. S.P. Jain stating that the claimant was suffering from the said disease from 6-7-2000 and was advised rest for 80 weeks from 6-7-2000 to 21-2-2000. The workman has failed to file any medical certificate from 3-6-1996 to 5-7-2000 advising him complete rest.

It was further submitted that the workman is a habitual absentee. He remained absent for 893 days during the period 1991 to 1995.

The workman has filed prescription B-30 dated 4-10-2000 in which medicines have been prescribed up to 2-2-2002. There is no certificate that the workman was not in a position to resume his duty and he was advised rest for 80 weeks.

The workman has further submitted the prescription of Dr. S.P. Jain dated 3-6-1996 to 7-2-2000. These are only prescriptions and medicines are to be taken by the workman have been mentioned in the prescription. There is no certificate of any Doctor that the workman has been advised rest for 80 weeks.

The workman has admitted in his cross examination as under:

"I do not know the name of my disease but I was cured by the Doctor. I was cured after number of years. I was not hospitalized during the treatment from 1996 to 2002. Vol. I was getting treatment by prescription. Vol. I was getting examined at my house only. It is wrong to say that I was so sick that I could not visit my office."

These admissions of the workman show that he was not suffering from any such ailment which prevented him to visit his office. He has admitted that he has not been hospitalized even for a single day during his absence from 1996 up to 2002. The workman was in a position to get himself examined by the Dr. of the Personnel Department of the management but he intentionally avoided as he was not really suffering from any ailment which required long

treatment. He has not filed any certificate to establish the fact that he has been advised rest due to his serious illness. He has remained at home and got prescription from the Doctor for long 8 years. It appears that the prescriptions are forged and cooked up. The workman has not filed the original prescriptions. All these are photocopies.

The workman has admitted that he was advised by the bank to get a certificate from the Personnel Department. Had he been seriously ill he would have approached the Doctor of the management to get himself examined. He avoided the directions of the bank deliberately.

In the circumstances it is held that the workman was not seriously ill and he was in a position to approach the bank and to visit the office and get his leave sanctioned on producing medical certificate. It appears that these photocopies of the medical certificates have been obtained in 2002 after manipulation. He has not sent any medical certificate to the bank along with letter under certificate of posting. He has not been able to disclose the disease from which he was suffering. His bare statement is that he did not know the name of his disease but he was cured by the Doctor. The disease Labyrinth - C is not a serious disease which may prevent the workman to attend his duties.

It was submitted from the side of the bank that he has been absent for 893 days during the year 1991 to 1995 and his absence has been treated on leave without payment.

It was submitted from the side of the management that he has been treated as voluntarily retired after a long period and after issuance of 30 days notice.

In case 30 days notice is issued the workman should send satisfactory explanation. Fresh notice u/s 33 need not be sent in case it has been received by the workman. The workman has admitted in his cross examination that he received the letters sent by the management.

It was further submitted by the workman that the bank should have held an inquiry. No inquiry is necessary under Clause 17 of the Vth BPS. The duty is cast on the workman to report to duty or give satisfactory explanation. After receipt of 30 days notice the workman did not respond it. He did not report for duty. He reported for duty after long 8 years and he has no medical certificate to the effect that he was seriously ill and the Dr. advised him bed rest.

It has been held in 2005 (3) LLN 57 that the bank was justified in resorting to the same after arriving at a satisfaction that the appellant has no intention to join his duties.

It has been held in 2001 Lab IC 301 as under :—

"Employee not intending to join nor offering any explanation regarding his unauthorized absence Presumption drawn under Rule that employee stands retired from service - Order terminating his services not punishment for misconduct - Not violative of principles of natural justice."

In the instant case also, it is apparent from the record that the workman did not intend to resume his duties. The law cited by the workman is not applicable in the facts and circumstances of the present case.

From the evidence on record it is established that the workman was unauthorisedly absent for 893 days during 1991 to 1995 and he was again absent from 1996 to 2002 for 8 years. The workman has remained on unauthorized absence for almost over 10 years in between 1991 to 2002. The bank cannot afford to continue such an employee. The plea of the workman that he was seriously ill is ill-founded. No medical certificate has been filed on the record showing that the workman was seriously ill and he was advised bed rest from 1996 to 2002. The workman has manipulated the prescriptions. He has miserably failed to prove the averments of claim statement. He is not entitled to get any relief as prayed for.

The reference is replied thus:

The action of the management of Punjab & Sind Bank to treat the workman Shri Harswaroop to have voluntarily retired from service under Clause 17 (a) of the Bipartite Settlement is legal and justified. The workman applicant is not entitled to get any relief as prayed for.

The award is given accordingly.

Date: 17-05-2007.

R. N. RAI, Presiding Officer

नई दिल्ली, 30 मई, 2007

का. आ. 1825.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय नासिक के पंचाट (संदर्भ संख्या 2/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-2007 को प्राप्त हुआ था।

[सं. एल-12025/1/2007-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 30th May, 2007

S.O. 1825.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/98) of the Labour Court Nashik as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Union Bank of India and their workman, which was received by the Central Government on 28-5-2007.

[No. L-12025/1/2007-IR(B-II)]

RAJINDER KUMAR, Desk Officer
ANNEXURE

BEFORE SHRI M.M. AGRAWAL, PRESIDING
OFFICER, LABOUR COURT, NASHIK

Reference (IDA) No. 2/1998

BETWEEN

The Zonal Manager,
Union Bank of India,
Jeevan Prakash Building,
University Road, Pune-411005.

..... First Party

And

The General Secretary,
Union Bank of India Employees
Union. C/o Shri Sanjay Dahale.

At & post-Palse,

Taluka District, Nashik.

..... Second Party

PRESENT

Shri M.M. Agrawal, Judge

Appearances : Shri C.A. Deolalkar Advocate first party

Shri S.V. Joshi Advocate for second party

AWARD

(23-4-2007)

This is a reference sent to this Court by the Government of India, Ministry of Labour, New Delhi under Section 10 of the Industrial Disputes Act, 1947 for adjudication of the dispute whether the claim of Shri Sanjay Narhari Dahale that he had worked continuously from 15-4-94 to 15-12-94 and put more than 240 days of service as a peon under Palse Branch of Union Bank of India is true? If so, whether the action of the management in terminating the service of Shri Sanjay Narhari Dahale w.e.f. 16-12-94 is legal and justified? If not, to what relief the said workman is entitled to.

- After receipt of the reference, notices were sent to both the parties vide Ex. O-2 to O-4.
- Thereafter second party filed statement of claim at Ex. U-5. The first party filed written statement at Ex. C-17 opposing the claim of workman.
- On the rival contentions of both the parties, my learned predecessor framed issues at Ex. O-7. Thereafter the workman filed his own affidavit at Ex. U-14 in lieu of oral evidence. However, he did not offer himself for cross examination. Hence, his affidavit Ex. U-14 cannot be read in evidence. The second party has not filed any documentary evidence to show that the workman Shri Sanjay Dahale worked for 240 days with the first party. Hence the action of management in terminating the services of Shri Sanjay Dahale cannot be termed as illegal or unjustified. Hence, the workman Shri Sanjay Dahale is not entitled to any relief. Hence, the reference is rejected. The award be sent to the Government of India, Ministry of Labour, New Delhi for publication.

Nashik

Date: 23-4-2007

M.M. AGRAWAL, Presiding Officer

नई दिल्ली, 30 मई, 2007

का.आ. 1826.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-2, नई दिल्ली के पंचाट (संदर्भ संख्या 88/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-2007 को प्राप्त हुआ था।

[सं. एल-12012/58/2001-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 30th May, 2007

S.O. 1826.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 88/2001) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure in the Industrial Dispute between the management of Syndicate Bank and their workman, which was received by the Central Government on 28-5-2007.

[No. L-12012/58/2001-IR(B-II)]
RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT-II, NEW DELHI

R.N. Rai, Presiding Officer

I.D. No. 88/2001

IN THE MATTER OF:

Shri Ramesh Gupta,
H. No. 479, Sec. 15-A,
Opposite Vidya Mandir School,
Faridabad (Haryana).

Versus

The Asstt. General Manager,
Syndicate Bank,
Zonal Office, 6, Bhagwan Das Road,
New Delhi-110001.

AWARD

The Ministry of Labour by its Letter No. 12012/58/2001-IR(B-II) Central Government Dt. 10/16-7-2001 has referred the following point for adjudication.

The point runs as hereunder :

"Whether the action of the management of Syndicate Bank in dismissal of the service of Shri Ramesh Gupta w.e.f. 20-4-1999 is just and legal ? If not, what relief the workman is entitled to ?"

The workman applicant has filed claim statement. In the claim statement it has been stated that the workman concerned is an employee working as clerk with M/s Syndicate Bank since 24th June, 1996 and has been confirmed in service as such.

That the service record of the workman concerned has been clean as a result of which the workman concerned has been confirmed and regularized in service after completion of the probation period.

That despite this workman concerned has been implicated in an alleged fraudulent act/misappropriation vide chargesheet dated 23rd May, 1998 and prior to it the workman concerned has been suspended vide letter dated 12th February, 1998.

That the management appointed the enquiry officer on 13th July, 1998 itself without waiting for the explanation to be given by the workman concerned.

That the enquiry has been held against the workman concerned in a mechanical manner and the same has been proceeded ex parte on 11th and 12th August, 1998 despite the workman's request to postpone the enquiry on medical ground in support of which a medical certificate was also sent to the enquiry officer.

That the workman concerned informed the enquiry officer on phone on 11th November, 1998 about his illness and for postponement of enquiry by a day concerning which the enquiry officer insisted on production of medical certificate which the workman concerned has produced. The medical certificate was of the Government Hospital, Faridabad which was sent by fax by the workman concerned despite this enquiry has been held ex parte against the workman concerned on 12th February, 1999. The workman concerned produced copy of the letters to defend himself but the enquiry officer asked the workman concerned to get the same attested by the Branch Manager. The next date of the enquiry fixed on 11th March, 1999 on which date Shri S.C. Lamba, Defence representative of the workman concerned informed the management about his having pain in ears and requested to inform the enquiry officer to postpone the enquiry for a day till 12th March, 1999 about which the enquiry officer also agreed.

That the defence assistant of the workman concerned went to the doctor and got him medically checked up and on taking the prescribed medicine got relief due to which he could resume duty at 11.45 a.m. with due permission.

That the enquiry officer has also wrongly and illegally held that the workman concerned has produced fabricated document which cannot be correct as the workman concerned has not been provided to lead evidence and give explanation.

The allegation of encashment of cheques is also wrong and illegal in view of the fact that the workman

concerned being simply a clerk cannot get encashed a cheque without having any account as alleged since it involves handling of a cheque by an officer to pass the same and cashier for making payment thereof which process has not been resorted to as such the workman concerned cannot be held liable for having committed the alleged act.

That the defence assistant of the workman concerned has requested for re-opening of the enquiry proceedings and even that request has not been allowed. The workman concerned has not received a letter pertaining to personal hearing fixed for 16th April, 1999 to 19th April, 1999.

It is also stated that the order of dismissal which has been sent vide covering letter dated 28th April, 1999 carries a letter dated 20th April, 1999 with a view to cover up the lapse since the workman concerned has been put on trial in the Court of Law on 21st April, 1999 which is a matter of record. Accordingly the management ought to have waited for the outcome of the criminal trial before initiating enquiry proceedings and dismissing the workman concerned. The said criminal proceeding is still pending and the workman concerned has been dismissed during the pendency of the same.

In the aforesaid circumstances the enquiry as held is a sham one and has been held in violation of the principle of natural justice with the biased and prejudicial mind.

That the charges so alleged are also mala fide and have been labeled with ulterior motives to harass the workman concerned who has been an active member of the Syndicate Bank Employees Union. The workman concerned has represented against the dismissal so made vide letter dated 31st January, 2000 and also made an appeal against the same vide appeal dated 14th June, 1999.

That the enquiry officer's report is based on conjectures and surmises as there is no sufficient evidence in support of the findings so arrived at which are perverse hence liable to be set aside.

That the workman concerned is innocent and cannot be held guilty of the allegations as leveled against him, since firstly he has not been given time to give reply to the chargesheet and secondly the enquiry has been held ex parte in violation of the principles of natural justice, thirdly no defence evidence has been allowed to be produced by the workman concerned and fourthly the fact of the workman concerned not having any account has been altogether ignored as without having an account the alleged cheques cannot be encashed.

The representations made by the workman concerned and defence representative have also not been taken into account.

That the management has erred in law by dismissing the workman concerned from service despite framing of

charges against the workman concerned on similar issue before a criminal court and the management has not waited for the criminal trial to be over and has erred in law by dismissing the workman concerned from service. In the aforesaid circumstances the alleged charges cannot be said to have been proved against the workman concerned and the dismissal order so passed is wrong and illegal against which the workman concerned has protested and demanded for withdrawal of the same.

That the enquiry officer and disciplinary authority have violated the relevant paras of the bipartite settlement dated 19th October, 1999 specifically para 19.4 of the same has been violated so the workman concerned has been put on trial in the court by the police on 21st April, 1999.

That the workman's representation dated 15th April, 1999 along with the medical certificate has also not been considered by the management.

In the aforesaid circumstances the dismissal order so made is liable to be set aside being wrong, mala fide and illegal.

That the workman concerned is not gainfully employed elsewhere and is meeting his day-to-day expense from the help and assistance of friends and relatives since the dismissal from service.

The Management has filed written statement. In the written statement it has been stated that the present dispute has been referred in a mechanical and routine way without the application of mind by the Ministry of Labour and the same is bad in law and is liable to be dismissed.

That the workman has suppressed the material facts from this Hon'ble Court and has tried to mislead this Hon'ble Court, as such, the workman is not entitled to any relief. Since, the workman has tried to create a wrong picture, as such, the following facts of the case are brought before the Court :

That the workman while working at Farookh Nagar Branch of the Bank was placed under suspension on 12-2-1999 pending initiation of disciplinary action into the serious allegations of gross misconduct of doing acts prejudicial to the interest of the Bank vide Clause 19.5(J) of the Bipartite Settlement for the following reasons.

That while working in the Branch, he got opened and operated the various accounts, such as SB STF-5, SB 4216 and OD 3/96, standing in his name and SB No. 13562 maintained by him jointly with Mrs. Raj Gupta, Mrs. Ritu Gupta and Kumari Rashu Gupta. Apart from above, he introduced and opened S.B. No. 13579 in the name of Ms. Meenu. He also got opened S.B. A/c. No. 4900 in the name of Smt. Santosh Jain, who was his neighbour, Shri Bhoj Kumar Jain was authorised to operate these accounts. There were about 44 credit entries purportedly by cash appearing in the above-mentioned S.B./D.D. accounts

aggregating to Rs. 7.09 lacs, which were reported to be fictitious credit entries made by the workman during his period from 30-7-1996 to 3-2-1998. The accounts were standing in the name of Shri Ramesh Gupta, his family members, neighbours, acquaintance and fraudulently withdrew/utilized the amounts from these accounts. To conceal his fraudulent acts, the workman falsified the bank records. Further on 14-8-1996 and 17-3-1997 he fraudulently encashed two cheques for Rs. 40,000 and Rs. 10,000 respectively drawn from his OD accounts and to conceal his fraudulent acts, he falsified, fabricated and manipulated the bank records. He fraudulently encashed two cheques unspecified OD accounts for Rs. 20,000 and Rs. 15,000 on 14-3-1997 and 21-3-1997 and to conceal these fraudulent acts, he falsified the bank records, destroyed or caused destruction of these two cash paid instruments. He had maintained various SB/FD/ODD accounts in the branch and the deposits held at the Branch in his name/in the name of his wife/his family members were apparently disproportionately source of his income indicating that the amounts fraudulently withdrawn by him through various fictitious credits were invested in various SB/FD accounts held in his name and his family members. By his above fraudulent acts, he caused a financial loss of Rs. 7.94 lacs besides interest to the bank.

For which chargesheet bearing Reference No. ZOD/IRC/CSW. 9/98 dated 23-5-1998 was issued to the workman, elaborating the charges leveled against the workman and the workman was called upon to submit his reply. The workman did not submit his explanation, as such, the departmental enquiry was conducted in the matter and Shri V. Desikan, Manager I.R. Cell was appointed as the Enquiry Officer, in terms of the provisions of Bipartite Settlement. The Enquiry Officer submitted his report and charges were proved against the workman. The findings of the Enquiry Officer were based on oral as well as the documentary evidence and the report dated 18-3-1999 was submitted. The DA considered the seriousness of the charges which were proved in the enquiry, awarded the punishment of dismissal from the services of the bank with immediate effect after serving a show cause notice. The appeal preferred by the workman was also dismissed by the Appellate Authority as no extenuating factor was brought in warranting reconsideration.

The management is placing on record the entire record. The perusal of the record would reveal that the workman was given full opportunity and the principles of natural justice were complied with and the submission of the workman were considered and the conclusion were drawn on the basis of evidence placed on record and further the enquiry was conducted as per the provisions of the Bipartite Settlement and the charges leveled against the workman were duly proved during the enquiry. The workman in the present claim petition has levelled false and frivolous allegations which are without any basis and the workman

is not entitled to any relief, as such, the case of the workman is liable to be rejected.

The workman was suspended from the service vide suspension order dated 12-2-1998 and subsequently served the chargesheet dated 23-5-1998 for his misconduct which was serious in nature. Various misconducts observed on his part includes misappropriating money, making fictitious entries in various accounts falsifying Bank records fraudulently encashing cheques and the transaction appearing in his/his family members account are apparently disproportionate through his known source of income and to conceal his fraudulent acts, he committed various other irregularities.

It is submitted that since the workman failed to submit his explanation to the chargesheet, therefore, it was decided by the DA to proceed with the departmental enquiry and the Enquiry Officer was appointed.

It is submitted that the Enquiry Officer sent notice dated 15-7-1998 which was duly received by the workman for conducting the enquiry on 11-8-1998. The workman sent a letter dated 27-7-1998 along with medical certificate, in response to that Enquiry Officer issued another registered letter dated 29-7-1998 which was duly received by him on 4-7-1998 advising him either to send a medical certificate from a government hospital or to attend the enquiry proceedings on 11-8-1998. However, he did not send the certificate or participated the enquiry on that day. As such, the Enquiry Officer directed the management to commence their evidence on that day and one management's witness was examined on that day and the examination-in-chief of the said witness was completed on 12-8-1998. Even on 12-8-1998 the workman did not appear and proceedings were continued as ex parte and deposition of the management's witnesses were concluded. The Enquiry Officer with the intention to provide an opportunity to the workman to cross-examine the witness adjourned the proceedings to 3-9-1998. On 3-9-1998 the workman participated in the enquiry and requested to adjourn the proceedings due to non-availability of his Defence Representative. At his request, Enquiry Officer adjourned the enquiry to 6-10-1998. On 6-10-1998 the workman appeared along with his Defence Representative and his Defence Representative also sought time to cross-examine the witness. Although, the enquiry was commenced at 11 AM. The Enquiry Officer gave sufficient time to the Defence Representative of the workman on that day and the workman's Defence Representative started cross-examination at 4 PM. The cross examination was continued on 7-10-1998 and on the same day, the Defence Representative was again requested for adjournment, which was granted by the Enquiry Officer and the enquiry was adjourned to 12-10-1998 and the cross-examination of the management's witnesses was completed on 14-10-1998, the Defence Representative once again sought adjournment and the enquiry was adjourned to 11-11-1998.

The enquiry was fixed for 11-11-1998, but on that day neither the workman nor his Defence Representative appeared for the reasons best known to them and the enquiry proceedings were concluded as ex parte. In the meantime, the workman represented the matter to DA to reopen the enquiry so as to lead his evidence and the enquiry proceedings were held on 12-2-1999. The documents introduced by the workman were disallowed, as the same were photocopies of the letters. However, he was permitted to either deposit the original or duly attested copies by the signatures of these letters and the enquiry was adjourned to 13-2-1999 for enabling the workman to file the same. On 13-2-1999 workman again sought an adjournment over phone and the proceedings were adjourned to 11-3-1999. On 11-3-1999 again the Defence Representative of the workman informed telephonically that he is not feeling well, as such, he could not attend the enquiry. It is denied that on 11-3-1999 the Enquiry Officer has agreed to postpone the hearing till 12-3-1999, as alleged. The Enquiry Officer sought the confirmation of the same fact from the Branch where the Defence Representative of the workman was working. The branch where the Defence Representative was working, confirmed that at about 11 : 55 AM the Defence Representative was present in the branch and discharged his duties, which shows that the Defence Representative of the workman told a lie just to delay the proceedings. Moreover, the workman also did not attend the enquiry proceedings on that day, as such, the enquiry proceedings were concluded ex parte on 11-3-1999. It is denied that the Enquiry Officer wrongly and illegally held that the documents. It is clear from the above that the workman was solely interested to delay the proceedings and he was not serious to produce his evidence, that is why he decided not to appear and, as such there was no other alternative with the Enquiry Officer, but to conclude the proceedings.

It is submitted that the enquiry was reopened by the DA at his request and the workman was given opportunity to lead his evidence on 12-2-1999. The subsequent request of the workman to reopen the enquiry again was rightly rejected as no merit was found in that request. It is submitted that initially the personal hearing was fixed for 12-4-1999 in the matter of proposed punishment and the same was adjourned to 16-4-1999 at the request of the workman. Instead of appearing 16-4-1999, the workman again sought adjournment vide his letter dated 15-4-1999 and the enquiry was once again adjourned to 19-4-1999, which was informed to him vide letter dated 16-4-1999.

The DA passed the orders awarding the punishment on 20-4-1999 and same was sent to Farookh Nagar Branch vide letter dated 20-4-1999 for delivery to the workman. However, the branch informed that the workman did not receive the same. A copy of the DA proceedings dated 20-4-1999 was then directly sent to the residential address of the workman vide letter dated 28-4-1999. It is denied that

there was any need to wait for the outcome of the criminal trial as alleged. It is submitted that the management was well within its right to proceed against the workman and there was no need to wait for the outcome of the criminal trial.

It is denied that the management has erred in law in any manner by dismissing the workman, specially in view of the charges framed by the criminal court against the workman, as alleged. It is further denied that there was any need to wait for the outcome of the criminal trial. All the allegation levelled by the workman are false and frivolous in this regard. It is submitted that the management was well within its rights to proceed against the workman. The misconducts committed by the workman were grave and serious in nature and shakes the confidence of the Bank in his integrity and honesty. Further, the Bank being a Financial Institute cannot keep and continue the services of the employees, like workman, who has defrauded the bank by indulging in various objectionable acts, which are criminal in nature. Moreover, the acts committed by him constitute an act of moral turpitude and the punishment awarded by the management was proportionate to the misconduct committed by him. The Bank has lost confidence in the workman and cannot be expected to keep such employee.

The workman applicant has filed rejoinder. In the rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

It is obvious from the perusal of the record that the issues of fairness of the domestic inquiry has been decided by order dated 5-3-2007. The inquiry has been held valid. The Inquiry Officer has followed the principles of natural justice and he has given sufficient opportunity.

The order dated 5-3-2007 regarding fairness of the domestic inquiry will form part of the award.

It was submitted from the side of the workman that punishment of removal as made is wholly unwarranted, illegal, unfair and unjustified since the workman has worked as clerk for the bank w.e.f. 24th June, 1996 and has also been confirmed in service.

It was further submitted that the service record of the workman concerned remained clean owing to which the workman has successfully completed the probation period and has been confirmed in employment.

It was further submitted that the departmental inquiry is neither proper nor fair. The workman was not given sufficient opportunity to cross examine the witness and to

produce his defence evidence while deciding the issues of fairness of the inquiry, these matters have been discussed at large and after considering the entire aspect of the case it has been held that the inquiry is fair. These issues should not be agitated again.

It was submitted from the side of the management that the workman in the present case while working at the branch got opened various account such as SB STF—5, SB. 4216 and OD 3/96 in his name and SB 13562 maintained by him jointly with Mrs. Raj Gupta and Kumari Rashu Gupta. Apart from this he also introduced and opened SB 4900. In the name of Smt. Santosh Jain who was his neighbour. There were 44 credit fictitious entries in these account aggregating to Rs. 7.05 Lakh, the said amount was withdrawn and utilized by him. To conceal his fraudulent acts he falsified the bank record. Further he encashed two cheques for Rs. 40,000 and Rs. 10,000 from his OD account and falsified and fabricated the bank record. He also encashed two unspecified cheques of Rs. 20,000 and Rs. 15,000 and falsified and fabricated the bank record. The amount fraudulently withdrawn by him was invested in various SB/FD accounts held in his name and his family members. By his fraudulent act the total loss suffered by him was to the tune of Rs. 7.94 Lakh.

It was further submitted that the management is a service industry and financial institution dealing in public money. all the employees are not only required to render prompt and efficient customer service but are also required to exhibit utmost honesty and integrity in the day to day transactions and functioning of the bank. The workman has resorted to activities detrimental to the interest of the bank by misappropriating the money and falsifying the bank records. It was also observed that the workman has not only misappropriated the money but also by his acts damaged the fair image of the bank and caused financial loss to the bank.

It was further submitted that the acts of the workman are highly detrimental to the image, reputation and standing of the bank and amount to moral turpitude as such the bank has lost faith and confidence in his integrity, devotion to duty and his honesty, and he has become undependable and unreliable for the bank therefore cannot be continued in the service of the bank.

It was further submitted that the punishment imposed to the workman is proportionate to the gravity of the misconduct committed by him. In view of the settled proposition of law that the courts normally should not interfere in the punishment awarded by the management to the workman, it is submitted that non-interference is required to be made by this Hon'ble Court in the quantum of the punishment imposed by the management to the workman.

My attention was drawn to 2000 LLR 1271. It has been that Section 11 A—Powers of Labour Court or

Industrial Tribunal to give appropriate relief in case of dismissal or discharge of workmen—Disciplinary action—Quantum of punishment—Discretion of Labour Court—Labour Court giving specific finding that charge of misappropriation and breach of trust established—It, however, setting aside dismissal order and ordering reinstatement with 25% back wages while imposing penalty of stoppage of 5 increments with cumulative effect—Unsustainable—Once act of misappropriation is proved, may be for a small or large amount, there is no question of showing uncalled for sympathy and reinstating employee in service—Labour Court cannot substitute penalty imposed by employer in such cases.

In case of proved misappropriation there is no question of considering past record. It is discretion of the employer to consider the same in appropriate cases, but the Labour Court cannot substitute the penalty imposed by the employer in such cases.

The case laws cited by the workman are not applicable in the facts and circumstances of the case. Their are several fictitious entries and those entire cannot be justified by any amount of evidence. The bank is a service industry and financial institution. It deals in public money. The employees are required to exhibit utmost honesty and integrity and day to day transactions and functions of the bank. He has misappropriated public money deposited by the customers and he has caused heavy loss to the bank. The punishment inflicted on the workman is proportionate. It is not shocking to the conscience of the Court. In the facts and circumstances of the case no punishment other than dismissal from service is justified. The workman is not entitled to get any relief as prayed for.

The reference is replied thus :

The action of the management of Syndicate Bank in dismissal of the service of Shri Ramesh Gupta w.e.f. 20-4-1999 is just and legal. The workman applicant is not entitled to get any relief as prayed for.

The award is given accordingly.

Date: 16-5-2007

R.N. RAI, Presiding Officer

नई दिल्ली, 1 जून, 2007

का.आ. 1827.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिलिट्री फॉर्म के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, पुणे के पंचाट (संदर्भ संख्या 98/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2007 को प्राप्त हुआ था।

[सं. एल-14012/48/2004-आई आर (डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 1st June, 2007

S.O. 1827.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 98/2005) of the Labour Court, Pune as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Military Farm and their workman, which was received by the Central Government on 1-6-2007.

[No. L-14012/48/2004-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE SHRI P.E. HAVAL, PRESIDING OFFICER,
2ND LABOUR COURT, PUNE**

Reference (I.D.A.) No. 98 of 2005

BETWEEN

The Director,
Military Farm,
Southern Command,
Khadki, Pune-3

... First Party

AND

Shri Laxman Narayan Prabhune,
Sr. No. 156,
Near Vasantdada Sugar Factory,
Manjari, Ta. Haveli,
Dist. Pune

... Second Party

AWARD

(Date 4-10-2005)

This is a reference made by the Desk Officer under Clause(d) of sub-sec. (1) and Sec. 2 and Sec. 12(5) r/w. Sec. 2(A) of the Industrial Disputes Act, 1947 for adjudication of industrial dispute between parties as above mentioned in Schedule which reads as under :

SCHEDULE

"Whether the action of the management of Military Young Stock Farm, Manjari now under the Military Farm, Khadki in closing down the Military Young Stock Farm w.e.f. 31-12-2001 without following the procedure laid down under the ID Act, 1947 and also terminating the services of Sh. Laxman Narayan Prabhune w.e.f. 8-12-2001 and denying him adequate compensation under the provisions is legal and justified ? If not, to what extent the concerned employee is entitled to ?"

Notice was sent to the second party, but second party has not claimed the notice. The postal authority returned the notice with endorsement in sufficient address. It was the responsibility of the second party to give proper/changed address. It seems that second party is not

interested in prosecuting his claim. I, therefore, have no alternative, but to dispose of the reference for want of prosecution by second party. I, therefore, proceed to pass following Orders :

ORDER

1. Reference is hereby disposed of for want of prosecution by 2nd party.
2. No. order as to costs.

Place : Pune

Date : 4-10-2005

P. E. HAVAL, Presiding Officer

नई दिल्ली, 1 जून, 2007

का.आ. 1828.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधांतर के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, पुणे के पंचाट (संदर्भ सं. 652/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2007 को प्राप्त हुआ था।

[सं. एल-40012/27/2004-आई आर (डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 1st June, 2007

S.O. 1828.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 652/2004) of the Labour Court, Pune as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 1-6-2007.

[No. L-40012/27/2004-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE MRS. S. S. SAWANT, PRESIDING
OFFICER, FIRST LABOUR COURT, PUNE**

Ref. I.D.A. No. 652 of 2004

The Principal General Manager,
BSNL
Bajirao Road,
Pune-411 002

... I Party

AND

Shri Bahu Baliram Shelar,
Post. Kedgaon,
Station, Tal. Daund,
Pune

... II Party

AWARD

This is a reference made to this Court by Govt. of India, Ministry of Labour/Shram Mantralaya, New Delhi for adjudication as mentioned in the schedule :

SCHEDULE

"Whether the workman Balu Baliram Shelar was in employment as casual mazdoor in the Deptt. of Telecom BSNL, under sub-division Daund continuously from 1999. If so, the action of the management in orally terminating/disengaging him without any notice and compensation is legal and justified and to what relief the concerned workman is entitled to and from which date ?"

Second party absent when called out. Second party failed to lead evidence. Hence reference stands disposed of for want of prosecution.

Pune

Date : 31-1-2007

Mrs. S.S. SAWANT, Presiding Officer
नई दिल्ली, 1 जून, 2007

का.आ. 1829.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 43/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2007 को प्राप्त हुआ था।

[सं. एल-40012/36/2001-आई आर (डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 1st June, 2007

S.O. 1829.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 43/2001) Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 1-6-2007.

[No. L-40012/36/2001-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE SHRI A. N. YADAV PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/43/2001

Date : 25-05-2007

Petitioner Party No. 1
Smt. Ushabai W/o Ganesh Khobragade.
R/o Nr. Boddha Vihar,
Minil Nagar, Panchpaoli,
Nagpur-440 001.

Versus

Respondent Party No. 2
The General Manager,
Telecom, Door Sanchar,
Near Morris College,
Nagpur-440 001.

AWARD

(Dated : 25th May, 2007)

1. The Central Government after satisfying the existence of disputes between Smt. Ushabai W/o Ganesh Khobragade, R/o Nr. Boddha Vihar, Minil Nagar, Panchpaoli, Nagpur-440 001 Party No. 1 and the General Manager, Telecom, Door Sanchar, Near Morris College, Nagpur-440 001 Party No. 2 referred the same for adjudication to this Tribunal vide its Letter No. L-40012/36/2001-IR(DU) Dt. 27-4-2001 under clause (d) of sub-Section (1) and sub-Section (2A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947) with the following schedule.

2. "Whether the action of the Management of Telecom through its General Manager, Telecom in terminating the services of Smt. Ushabai W/o Ganesh Khobragade a daily rated worker w.e.f. 15-6-2000 is legal, proper and justified? If not, to what relief the workman is entitled?"

3. The petitioner Smt. Ushabai is a wife of Ganesh Khobragade has approached to the court with the contentions that her removal from the service is illegal and requested to reinstate her in the service w.e.f. 15-6-2000 with the back wages. Her case in short is that she has worked from 17-6-1998 to 15-6-2000 without any break in the service and she has acquired a permanency. She was working on a daily wages basis as a permanent employee. She was paid Rs. 800 per month. She was appointed in the year 1996 for 2 months for sprinkling water on Khas Tatti and filling the coolers. After completion of summer season her service was automatically terminated. In the year 1996 she was again called to resume the duty for the period of 2 months and on completion of summer period her services were terminated. Thereafter in the year 1997 she was again called for duty for 2 months. And after completion of 2 months her services were terminated. In the year 1998 she was called on 16-6-1998 to work as a daily wages employee during the office hours and she used to work from 11.30 a.m. to 5.30 p.m. she was not appointed for 2 months but was appointed permanently on the daily wages. She used to clean the office, fix the papers in Xerox machine, supplying drinking water and was also distributing the dak from the office to another. She worked in the office of the non-applicant from 7-6-1998 to 15-6-2000 without any break or disruption of the service and getting a salary of Rs. 800 per month on 15-6-2000 she worked for a whole day without assigning any reason her services were terminated orally. The oral termination is colourable exercise of powers, wasted on non-applicant which is totally illegal as the

protection given to the non-applicant. She has prayed for reinstatement with full back wages as indicated above.

4. On behalf of the management the Written Statement has been filed resisting the claim of the petitioner. It has denied that the petitioner has worked continuously and regularly after 1998 till 15-6-2000. According to the management she had worked with the respondent as Khas Tatti Mazdoor for 2 months every year from 1996 to 2000 and there is no continuity of the service as such as regarding the payment as per notification issued by Government of Maharashtra she has paid Rs. 800 per month during the spell of summer season. No other work was given to her or no other liability was saddled on her. She was not even a daily wager or permanent employee. Normally the summer season start from 16th April and it ends on 15th of June every year. On expiry of summer season the services are automatically terminated. Payment of wages of the work of Khas Tatti Mazdoor has already been made as per government scheduled rate and there is no question of back wages. According to it she is neither permanent servant nor she has worked continuously for the requisite period during any year. Her appointment was also not as per recruitment rules and she has not at all entitled for the relief as prayed by her.

5. On the basis of the above submissions the point that arises from my consideration is as under :—

“Whether the termination of the petitioner is legal, proper and whether she is entitled for any reinstatement or any other relief as prayed by her.”

6. In order to prove her case the petitioner examined herself and on behalf of the management Gopal Padole is examined. Both the parties have also filed the written notes of argument I have heard their counsels also. From the evidence as well as from the documents filed by the management it is clear that she was working only for 2 months in a year for sprinkling the water on khas tattis. No doubt she was paid Rs. 800 as per month, but the payment was on vouchers and her services were come to an end on the expiry of summer season. Every year she used to work upto 15th of June. In their cross examination the petitioner Smt. Ushabai has admitted all these facts. Similarly it is also undisputed facts that her appointment was not against the permanent vacant post nor it was as per recruitment rules. Her name was not called from the employment exchange nor any test was taken. She was given job for 2 months only for sprinkling the water on khas tattis. There is nothing on record to show that some other work was allotted to her. Though she has contended that in the year 1998 she was given an appointment nor for the specific period, but it was for the continuous period till the date of her termination. According to her she worked from 15-6-1998 till 15-6-2000 continuously and thus she was a permanent casual labour. During this period she has worked not only of sprinkling the water on khas tattis but cleaning

the office, feeding papers in Xerox machines, supplying dak from one table to another table as messenger and giving water to the employees. But besides her bare words there is no other evidence on record to substantiate her contentions.

7. It appears that she was working as Khas Tatti Mazdoor and normally in this area the ladies are given the work of sprinkling the water during the summer season for 2 months only. It starts particularly on 15th of April and it continues upto 15th of June. As there is no evidence regarding the continuous work for more than 240 days, her contentions she acquired permanency cannot be accepted. Similarly the observance of Section 25[F] I.D. Act by paying a retrenchment compensation etc. was not necessary. She has never worked continuously and her services cannot be treated as a continuous service. In a reported case of Umadevi the full bench of Hon'ble Supreme Court has already observed that the management has a right to engage any person for a particular period. If her engagement was for the period of 2 months only in every year, it was legal as per the above authority. In such circumstances there is no need of issuing any termination notice or paying any retrenchment compensation. This cannot be a retrenchment. In this circumstance in the light of the above principles of above judgment also no relief can be granted to her. She is neither entitled for reinstatement as her appointment was not as per recruitment rules. In the result she is not at all entitled for any relief and there is no other go than to reject her claim. The reference stands as dismissed and it is answered in negative.

Hence this award.

Dated : 25-5-2007

A. N. YADAV, Presiding Officer

नई दिल्ली, 1 जून, 2007

का.आ. 1830.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दिल्ली मिलके स्कीम के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, नई दिल्ली के पंचाट (संदर्भ संख्या 106/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2007 को प्राप्त हुआ था।

[सं. एल-42011/38/2000-आई आर (डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 1st June, 2007

S.O. 1830.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 106/2000) Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of Delhi Milk Scheme and their workman, which was received by the Central Government on 1-6-2007.

[No. L-42011/38/2000-IR(DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE SHRI SANT SINGH BAL, PRESIDING
OFFICER, CENTRAL GOVT. INDUSTRIAL
TRIBUNAL NO. 1, NEW DELHI**

I.D. NO. 106/2000

In the matter of dispute between :

The Secretary,
Driver-cum-Salesmen Welfare Association,
House No. T-595/A-1,
Gali No. 3, near Shiv Mandir,
Prem Nagar Road,
Baljeet Nagar,
New Delhi-110 001

.....Workmen

Versus

The General Manager,
Delhi Milk Scheme,
West Patel Nagar,
New Delhi-110 008

.....Management

APPEARANCES

Shri Narender Singh Secretary of Drivers-cum
Salesmen Welfare Association.

Shri A. R. Bansal Cash Clerk with Shri Anoop
Srivastava for management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42011/38/2000/IR (DU) dated 11-9-2000 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether Driver-cum-Salesmen also discharging duties as being done by cash clerks/Asstt. Cashier. Delhi Milk Scheme are eligible to be considered for promotion to the post of Asstt. Milk Distribution Officer in Delhi Milk Scheme alongwith cash clerks/Asstt. Cashier ? If not, to what other relief they are entitled ?"

2. After completion of pleadings i.e. filing of claim statement, written statement, replication and recording of evidence the case was posted for arguments when Shri Narender Singh, Secretary, Driver-cum-Salesmen Welfare Association made statement on 3-5-07 to the effect that the notification dated 31-3-07 has been issued providing 10% quota in promotion to feeder cadre posts of Assistant Milk Distribution Officer and with the publication of this

the claim of the claimant in the reference stands satisfied and he requested to pass a No Dispute Award. In view of the above statement of Shri Narender Singh, Secretary, Driver-cum-Salesmen Welfare Association the claim in reference stands satisfied and No Dispute Award is accordingly passed. File be consigned to record room.

Dated : 3-5-2007 SANT SINGH BAL, Presiding Officer

नई दिल्ली, 1 जून, 2007

का.आ. 1831.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-I, चण्डीगढ़ के पंचाट (संदर्भ संख्या 315/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2007 को प्राप्त हुआ था।

[सं. एल-40012/293/2000-आई आर (डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 1st June, 2007

S.O. 1831.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 315/2000) Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 1-6-2007.

[No. L-40012/293/2000-IR(DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE SHRI RAJESH KUMAR, PRESIDING
OFFICER, CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-1,
CHANDIGARH**

Case No. I. D. 315/2000

Shri Raj Kumar C/o Sh. R. K. Sharma,
H. No. 372, Sector-20-A,
Chandigarh (U.T.)

.....Applicant

Versus

1. The Chief General Manager, Telecom
Punjab Circle, Sector 34,
Chandigarh-160 001 (U.T.)

2. The Principal General Manager, Telecom,
Telephone Deptt. Sector-18,
Chandigarh, 160 001 (U.T.)

.....Respondents

APPEARANCES

For the Workman : None

For the Management : Shri G. C. Babbar

AWARD

Passed on 10th May, 2007

Central Govt. vide notification No. L-40012/293/2000-IR (DU) dated 24-8-2000 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the Chief General Manager, Telecom, Punjab Circle, Chandigarh and the Principal General Manager, Telecom, Chandigarh Distt. in ordering disengagement/termination of services of Sh. Raj Kumar, a workman engaged through contractor Sh. Anil Kumar w.e.f. 22-2-99 is just and legal ? If not, to what relief the workman is entitled and from which date ?"

2. Case repeatedly called. None has put up appearance on behalf of the workman. Shri G. C. Babbar advocate for the management submitted that workman petitioner is not appearing in this case since 10-5-06 till today on 7th date and on 10-5-06 after disposal of the case appeared in late hours and noted the date in the order sheet and thereafter never came on sixth date including today. Lastly notices were issued for 20-2-07 and 10-5-07 which were duly noted by him and despite noting the date himself he did not appear. Shri Babbar submitted that workman appears to be gainfully employed somewhere and he is not pursuing his case and for this very reason he did not appear for the last 6/7 dates despite two court notices issued to him and one time noting the date in the order sheet.

3. In view of the above, since the workman is not appearing despite notice, no purpose will be served in keeping this case pending. Therefore, the present reference is returned for want of prosecution to the Central Govt. File be consigned to record.

Chandigarh. RAJESH KUMAR, Presiding Officer
10-5-2007

नई दिल्ली, 1 जून, 2007

का.आ. 1832.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-I, चण्डीगढ़ के पंचाट (संदर्भ संख्या 52/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2007 को प्राप्त हुआ था।

[सं. एल-12011/39/2006-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 1st June, 2007

S.O. 1832.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 52/2006) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure, in the Industrial Dispute between the management of Central Bank of India, and their workmen, which was received by the Central Government on 1-6-2007.

[No. L-12011/39/2006-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI RAJESH KUMAR, PRESIDING
OFFICER, CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-1,
CHANDIGARH**

Case No. I. D. 52/2006

The President,
Central Bank of India Employees
Union Haryana,
129, Lal Kurti,
Ambala Cantt. (Haryana)-133 001Applicant

Versus

The Regional Manager,
Central Bank of India Regional Office,
Ambala Cantt.,
(Haryana)-133 001Respondent

APPEARANCES

For the Workman : None.

For the Management : Shri Raj Kumar

AWARD

Passed on 16th May, 2007

Central Govt. vide notification No. L-40011/39/2006/IR (B. II) dated 4-8-2006 has referred the following dispute to this Tribunal for adjudication :

"Whether the punishment imposed by the management of Central Bank of India, Haryana, Ambala on Shri Bal Kishan vide order dated 19-12-2003 is in violation of Clause 19.6 of Bipartite Settlement dated 10-4-2002 and justified ? If not what relief the concerned workman is entitled to ?"

2. Authorized representative of the management Shri Raj Kumar submitted that Union appears to be not interested as five times court notices were issued to the workman and after notice Shri B. S. Gill appeared for workman and request date for filing of the written claim for 5-4-07 but claim statement not filed nor workman or his authorized representative appeared. As none appeared for the workman despite notices, nor claim statement filed, it appears that workman is not interested to pursue his case

and therefore, not appearing and no useful service will be served in keeping this reference pending. In view of the above, as the workman is not appearing despite court notices, the present reference is returned to the Central Govt. for want of prosecution. Central Govt. be informed. File be consigned to record.

Chandigarh
16-5-2007

RAJESH KUMAR, Presiding Officer

नई दिल्ली, 1 जून, 2007

का.आ. 1833.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केन्द्रीय विद्यालय के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 38/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2007 को प्राप्त हुआ था।

[सं. एल-42012/192/2002-आई आर (सी एम-II)]
अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 1st June, 2007

S.O. 1833.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 38/2003) of the Central Government Industrial Tribunal-cum-Labour Court No. I, New Delhi as shown in the Annexure in the Industrial Dispute between the management of Kendriya Vidyalaya and their workmen, received by the Central Government on 1-6-2007.

[No. L-42012/192/2002-IR (CM-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI SANT SINGH BAL : PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL NO. I, NEW DELHI

I. D. No. 38/2003

In the matter of dispute between :

Shri Jahangir Khan,
C/o. Delhi Mazdoor Sangathan,
Plot No. 1, Near Udaseen Mandir,
Aaram Bagh, Pahar Ganj,
New Delhi-110055

.....Workman

Versus

The Principal,
Kendriya Vidyalaya,
Sector-IV,
R. K. Puram,
New Delhi

.....Management

APPEARANCES:

None

AWARD

1. The Central Government in the Ministry of Labour vide its Order No. L-42012/192/2002/IR (CM-II) dated 11-3-2003 has referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the action of the management of M/s. Kendriya Vidyalaya Sangathan, New Delhi in Terminating the services of Sh. Jahangir Khan, Ex-Peon w.e.f. 13-6-2001 is legal and justified? If not, to what relief the workman is entitled to and from which date?”

2. Notice of the reference was issued to parties for filing claim statement/written statement and Shri S. Rajappa A/R for management appeared on 22-9-03 and moved an application stating that the proceedings in this I.D. has been stayed by the Hon'ble High Court vide order dated 28-5-03 certified copy of which was also filed alongwith application and the matter was posted for further orders awaiting orders from High Court to 13-11-03, 1-3-04, 15-4-04, 13-7-04, 4-10-04, 23-12-05, 21-3-05, 9-6-05, 5-9-05, 2-1-06, 29-3-06, 10-7-06, 6-11-06, 6-2-06 and today 21-5-07 when a letter dated 30th March, 2007/10th April, 2007 from Shri Ajay Kumar Gaur Desk Officer [IR (C.II)] Ministry of Labour received which mentions that the proceedings in above I.D. has been quashed. Copy of the said letter from the Ministry of Labour is enclosed herewith. Copy of the judgement of the Hon'ble High Court is not enclosed as mentioned in the above letter dated 10-4-07. Thus the proceedings in this I.D. stands quashed. File be consigned to record room.

Dated: 21-5-2007 SANT SINGH BAL, Presiding Officer
नई दिल्ली, 1 जून, 2007

का.आ. 1834.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एक सी आई के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण नागपुर के पंचाट (संदर्भ संख्या 29/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2007 को प्राप्त हुआ था।

[सं. एल-22012/431/1995-आई आर (सी-II)]
अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 1st June, 2007

S.O. 1834.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 29/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Food Corporation of India and their workman, which was received by the Central Government on 1-6-2007.

[No. L-22012/431/1995-IR (C-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE**BEFORE SHRI A. N. YADAV PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR****Case No. CGIT/NGP/29/2000**

Petitioner Party No. 1
Shri Shamrao Mahadeo Naranaware,
R/o F.C.I. Quarter No. 15,
Chuna Bhatti Ajni,
Nagpur-440 001

Versus

Respondent Party No. 2
The District Manager,
Food Corporation of India,
Ajni, Nagpur-440 001

AWARD**(Dated : 22nd May, 2007)**

1. The Central Government after satisfying the existence of disputes between Shri Shamrao Mahadeo Naranaware R/o F.C.I. Quarter No. 15, Chuna Bhatti Ajni, Nagpur-440 001 Party No. 1 and The District Manager, Food Corporation of India, Ajni, Nagpur-440 001 Party No. 2 referred the same for adjudication to this Tribunal vide its Letter No. L-22012/431/95-I.R. [C-II] Dt. 7-1-2000 under clause (d) of sub Section (1) and sub Section (2A) of Section 10 of Industrial Dispute Act, 1947 [14 of 1947] with the following schedule.

2. "Whether the action of the Management of District Manager, Food Corporation of India, Ajni, Nagpur in retiring Shri Shamrao Mahadeo Naranaware, from the services w.e.f. 31-7-94 treating his date of Birth as 4-7-1934 and not as 4-7-35, as claimed by that workman is justified and proper? If not to what relief the workman is entitled to and what direction are necessary in the matter?"

3. The petitioner has approached to the Tribunal by filing his Statement of Claim in response to the order by the Ministry of Central Government vide reference mentioned above. His case in short is that he was appointed by the respondent w.e.f. 7-2-1961 in a capacity of watchman and later on in the year 1990 he was promoted as a head watchman.

4. His date of birth as per School Leaving Certificate and the certificate issued by the District Magistrate was 4-7-1935 and it was recorded in the service record also. However, subsequently the department has changed his date of birth as 4-7-1934 for the reason best known to it without any intimation or notice to him. The management displaced a seniority list in the year 1997 mentioning his date of birth as 4-7-1934. The petitioner submitted a several

applications and representations immediately after getting the knowledge about the change in the date of birth and requested to correct it. However, the management did not give any source on the basis of which it has mentioned the date of birth as 4-7-1934 when all the documents submitted by him were showing the date of birth as 4-7-1935. Despite the repeated representations and requests the management did not corrected it. It finally served the petitioner with an order retiring him w.e.f. 31-7-1994 on superannuation i.e. on completion of 60 years. Treating his date of birth as 4-7-1934. Thus he was retired by the management one year earlier i.e. at the age of 59 years in stead of 60 years. He was entitled to continue in the service upto 31-7-1995 i.e. till completion of 60 years as his date of birth was 4-7-1935. According to him this is an illegal termination without complying the provisions of Industrial Disputes Act. He had prayed to set aside the illegal arbitrary termination and reinstate him till he attends the age of 60 years i.e. upto 31-7-1995. The management has forcibly retired him and therefore, he should be allowed to continue in service.

5. The management by filing his Written Statement has denied the contentions of the petitioner. According to it the date of birth of the petitioner is 4-7-1934 and it was recorded as a 4-7-1934 only in the service record and seniority list. By clerical mistake it was recorded as 4-7-1935, however, later on the mistake was corrected by an officer who had attested the corrections. The applicant has joined the service on 7-2-1961. With U.O.I. and when he was serving in that department the said correct was made by the officer after verifying the documents on 2-4-1961. However, in token of correction the officer has certified the correction under his signature on 6-5-1964. No representation could be entertained after the period of 24 years and therefore, his representation was rejected. He was specifically informed to that effect on 15-1-1992 that whatever was recorded about his date of birth was correct. Again an intimation was given on 7-7-1993 the applicant has filed an application on 20-3-2000, the entry was made by the Government of India in record and later it was transferred to F.C.I. The original entry about his date of birth was taken by the Government of India on the basis of original School Leaving Certificate, therefore, the duplicate copy of the School Leaving Certificate indicating his date of birth as 3-7-1935 was not genuine and therefore, it was not accepted. He was specifically informed about his date of birth but he has not raised any dispute immediately and therefore, the dispute is not maintainable and it should be rejected. The management is firm on its recording of the date of birth as well as further action of retiring him on the basis of it w.e.f. 31-7-1994. It has prayed to reject the prayer of the petitioner to continue him in the service upto 31-7-1995.

6. Both the counsels have filed their written notes of argument after adducing evidence and allowing the parties to cross-examine their witnesses. The petitioner

examined himself to support his claim while on behalf of management to Jacob Mathew has been examined. Besides this petitioner workman has filed Letter of the District Manager Dt. 23-3-1990. His application received to the management on 30-2-1989. Under another list, a certificate of age, Nationality and Domicile issued by District Magistrate. Letter issued by D.M.F.C.I. Dt. 11-7-1991, Memo issued by District Magistrate Dt. 29-10-1982. Again a memo issued by D. M. Dt. 22-2-1991 and Original School Leaving Certificate.

7. Undisputedly the petitioner was entitled to serve upto 60 years of age. The disputes are regarding the correction of the date of birth by the Management. The management i.e. F.C.I. has refused to correct it because it was earlier corrected by an officer of U.O.I. where he was earlier serving. Undisputedly he was transferred from that department to the F.C.I. The management is denying to correct it on the ground that the petitioner was late in making representations and after completion of five years he is not entitled to change the date of birth. The management had already rejected his prayer. Again there was a delay in raising the dispute. These are the reasons, which appear to have been given by the management to correct the service record. The petitioner has filed a certificate of the domicile issued by the management which supports his contentions that his date of birth was 7-4-1935. Similarly a original School Leaving Certificate issued by Head Master of the Depressed Classes, N.D.P. Education Society, Lashkaribagh, Nagpur. It is a certificate issued on 9-4-1952. It is in Marathi and his date of birth both in words and in figures is mentioned as "Fourth of July Nineteen Thirty Five". He had left the school in the month of April, 1946 on passing his 4th standard examination of the Marathi School. Besides this he has filed the letters issued by the District Manager of F.C.I. in which his date of birth is shown as 4-7-1935. Similarly the management has filed the documents in support of its claim i.e. a seniority list as on 31-12-1993 and his service record of U.O.I. wherein his date of birth was corrected from 4-7-1935 to 4-7-1934 under the signatures of technical officer Central Storage Department, Raipur. Though the management is containing that it was corrected in the year 1961 but it is not clear whether it was corrected on 6-5-1961 or later to it. The Xerox copy does not disclose the date when it was corrected. But the certificate of technical officer by K. B. Katkar Dt. 6-5-1964 and Dt. 2-4-1964 shows that it was corrected after verifying the original school leaving certificate. It is also contended on behalf of the management that some letters issued by the petitioner shows that he himself has mentioned his date of birth as 4-7-1934. Further it has filed the documents showing that his prayer was rejected by the management because earlier it was corrected after verifying original and later on it was rejected because he had applied for change in the date of birth, after 5 years from entry in the service.

8. From the above evidence one thing is clear that the date of birth was initially at the time of entry in the service was written as 4-7-1935 and later on it was corrected as 4-7-1934. There is nothing on record to indicate on what basis it was corrected. The certificate of Shri K. B. Katkar of the year 1964 simply discloses that it was on the basis of Original School Leaving Certificate, but either the original or the duplicate of it is not on the record filed by the management. The certificate which is on record is also a school leaving certificate. Though the management has denied to correct it because it was a duplicate certificate, there is nothing on record to indicate that the certificate on record is a duplicate. It is original having signature and issued long back in the month of April 1952. There was no reason to disbelieve the same.

9. Similarly the management rejected it because he had applied after completion of 5 years of service. In fact immediately from the year 1988 on getting knowledge of a mistake the petitioner has requested the management repeatedly on several occasions. He has given the date of the representations alongwith the copies of the letters. There cannot be a delay in getting it corrected. In fact the management is misguiding when it says that it was a change in date of birth. The petitioner was simply requesting to correct the mistake of changing his date of birth from 1935 to 1934. It cannot be a change of the date of birth but was the request to rectify the mistake of the management therefor. There may be a rule as indicated by the management without showing any text will not help it to substantiate its action of rejecting the representation of the petitioner. The mistakes can be corrected at any time. There cannot be a limitation for correction. It is also a fact that the management has while issuing a final withdrawal of G.P.F. issued the letters mentioning his date of birth as 4-7-1935 and the petitioner has also in some letters has written his date of birth as 4-7-1934 will not affect either of the petitioner or management. The truth will remain that at the time of entry his date of birth was recorded as 4-7-1935 here is also a document Dt. 19-4-1952 under the signature of head master to support it. There is nothing on record either original or duplicate document showing his date of birth as 4-7-1934. Consequently in my view the management has wrongly rejected the petition of petitioner, which resulted in causing illegal retirement one year before completion of 60 years of age by the petitioner. The action of the management causing his retirement w.e.f. 31-7-1994 is totally illegal. He was entitled to continue in service upto 31-7-1995 and illegal premature retirement will have to be set aside. Accordingly the illegal retirement which amounts to termination to set aside and pass the final order.

ORDER

- (i) The action of the management retiring the petitioner w.e.f. 31-7-1994 being illegal is set aside.

- (ii) The management is directed to treat him in the service upto 31-7-1995 till completion of his 60 years as his date of birth is 4-7-1935.
- (iii) The management shall pay the salary of the period from 31-7-1994 till 31-7-1995 and make the necessary corrections in the benefits to which the petitioner was entitled on his retirement as on 31-7-1995.

Hence this award.

Dated : 22-5-2007 A. N. YADAV, Presiding Officer

नई दिल्ली, 1 जून, 2007

का.आ. 1835.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 100/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2007 को प्राप्त हुआ था।

[सं. एल-22012/186/1989-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 1st June, 2007

S.O. 1835.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 100/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employer in relation to the management of WCL and their workman, which was received by the Central Government on 1-6-2007.

[No. L-22012/186/1989-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI A. N. YADAV, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/100/2004

Petitioner/ : Shri Kishan Muttayya, through the
Party No. 1 General Secretary, Lal Bavta Koyla
Kamgar Union, Near Masjid,
Nukoom, Chandrapur (M. S.).

Versus

Respondent/ : The Sub Area Manager, Hindustan
Party No. 2 Lalpeth Colliery of WCL, PO
Hindustan, Lalpeth, Dist. Chandrapur.

AWARD

(Dated : 4th May, 2007)

1. The Central Government after satisfying the existence of disputes between Shri Kishan Muttayya,

through the General Secretary, Lal Bavta Koyla Kamgar Union, Near Masjid, Nukoom, Chandrapur (M. S.) Party No. 1 and the Sub Area Manager, Hindustan Lalpeth Colliery of WCL, PO Hindustan, Lalpeth, Dist. Chandrapur Party No. 2 referred the same for adjudication to this Tribunal vide its Letter No. L-22012/186/89-IR(C-II) dt. 30-11-1989 under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) with the following schedule.

2. "Whether the action of the management of W. C. Ltd., (Hindustan Lalpeth) in terminating services of Sri Kisan Muttayya, Tub Repairer w.e.f. 29-10-88 is justified? If not, to what relief the workman concerned is entitled?"

3. The petitioner approached to the Tribunal by filing its Statement of Claim with the contentions that he has been illegally terminated by the management Western Coalfields Ltd. He was tub repairer/acting driver and was working right from 14-8-1970 as a permanent employee. He was absent on 15-6-1988 as he was ill and as his health was not recovered in a colliery hospital, he was taking a treatment from private doctor. However, on 24-10-1988 he received a notice from the management Dt. 16—22-10-1988. Calling upon him under Section 9(d) of the standing order to explain as to why he shall not be treated as deserter having terminated his contract of services on his own accord, since he was remaining absent without permission continuously for more than 10 days. He was called upon to explain it within 7 days and failure will result in treating as a deserter.

4. According to the petitioner he replied the notice within 7 days from the date of receipt explaining that he was ill and taking treatment, but without considering his explanation or without initiating any inquiry against him, even before the expiry of 7 days, the management terminated his services by an order dt. 30-10-1988. It is contended that the action of the management is highly illegal. He has been punished without any enquiry and without giving any opportunity to defend himself. He was a permanent employee having been worked for more than 18 years. According to him termination, in such manner totally illegal and therefore, he reported the matter to ALC who tried to reconcile it and due to the failure of settlement referred the dispute to the ministry for sending it to this tribunal for adjudication. Accordingly under the above referred order a reference has been made by the Labour Ministry.

5. The management by filing a reply denied the contentions of the petitioner and supported the action taken under Clause 9(d) of certified standing order. According to it the management has treated him as a deserter and his contract of service or employment comes to an end automatically. After filing a statement right from 1983 to 1988 for 5 years showing his working days of each year submitted that the petitioner deliberately did not attend

the work. On the contrary he was unauthorisedly running a liquor shop and as he was not interested in the service of the management he himself remained absent without any permission or sanction from the competent authority w.e.f 15-6-1988, therefore, after issuing a show cause notice his termination automatically come in to effect by operation of statutory provisions of standing orders. Thus he deserted himself from the service. His absence was unauthorized, there was no need of any enquiry. However, it has also prayed if the tribunal is of the opinion that it was necessary to make a proper enquiry, it is ready to prove the charges against the petitioner before the tribunal. It has also prayed that the management should be given a permission to prove the charges before the tribunal. Finally it has requested to dismiss the claim petition.

6. I have heard the counsel of the petitioner as well as of the management they have filed a Written Notes of Argument. The points that arise for my consideration are as follows :

- (i) Whether the action of the management in terminating the services of the petitioner Kisan Muttayya by an order dated and w.e.f. 29-10-1988 is justified, legal and proper ?
- (ii) Whether he is entitled for the any other relief as claimed by him ?

7. In order to prove the charge the petitioner examined himself and the management examined one Janakram Sharma, Deputy Chief Managing Engineer. They both have in their affidavit supported their contentions and remained un-shattered to their stand despite the cross examination. In fact oral evidence has less importance in present case, the question being on the legal point.

8. Undisputedly no enquiry has been taken place. It is also undisputed that the order of termination is dt. 29-10-1988 and the notice issued by the Management for treating him deserted is dt. 22-10-1988. It is received to the petitioner on 24-10-1988. In the light of these undisputed facts let us considered how far the action of the management is proper ? In the cross examination even the witness of the management has admitted that to unauthorized absence from the duty is a misconduct. It is also undisputed fact that the certified standing Order No. 14(1) makes it obligatory to issue a punishment order only after informing to the workman in writing of alleged misconduct and giving him an opportunity to explain the allegations made against him in the departmental enquiry. A bare perusal of the standing order makes it clear that before punishing any workman the departmental enquiry is necessary. No doubt the petitioner in habit of remaining absent and in the past years before his termination order he worked for few days only. But the fact remains that even as per notice issued under standing order 9(d) is in respect of only for the absence w.e.f. 15-6-1988 onwards without

mentioning any specific date. However, it can be presumed that it was upto the date of notice. But it was not a charge sheet nor he was given any opportunity showing, which misconduct has been committed by him and giving any opportunity to him to explain and defend the charges against him. When it was misconduct it was obligatory for the management to dismiss him only after enquiry. Here I would like to point that there are no dispute or that he is permanent employee. The Management has not denied that he was a permanent workman. Undisputedly he was working from 14 August 1970 till he was terminated i.e. 29-10-1988 for more than 18 years. Undisputedly he was appointed on the vacant post and working on it. Therefore, being permanent employee the enquiry was necessary. In the absence of any domestic enquiry the termination will have to be treated as illegal punishment, which cannot be sustained on any count.

9. Let us consider the submissions of the management that the contract of employment due to the unauthorized absence automatically comes to an end and the Management is entitled to treat him as a deserter consequently entitled to terminate his services. It is also contended on behalf of the Management that specific procedure has been provided under the standing order and he was quoted the standing order 9(d) of its colliery. The standing order Section 9(d) runs as follows :

“9(d) If a workman absents himself without permission continuously for 10 days or more, he shall be treated as a deserter having terminated his contract of his service of his own accord and shall be liable to payment of notice pay to the employer. The employer shall have the right to adjust dues, if any, payable to the workman for notice pay.

The Manager before taking action under this sub-clause shall issue a notice on the workman concerned by Regd. A. D. Post at his last known address giving him further seven days time within which to show cause as to why he should not be treated as a Deserter under this sub-clause. A copy of this notice shall be pasted on the notice board of the office of the Mine and one copy at the Register Keeper's Officer”.

10. On careful reading of this standing order I failed to understand as to how a service of the workman stands terminated automatically for his unauthorized absence only by issuing a 7 days notice. By no stretch of the imagination this standing order is giving right to the management to terminate the services of its workers without any enquiry for absence without permission or so-called unauthorisedly. In fact it is misconduct. It is obligatory for the management to prove the charges giving opportunity to him by holding a domestic enquiry. This is a procedure given only to treat any person as a deserter, which does not automatically results into the termination. The Section is provided not

for terminating the services but for computing the notice pay. As per this standing order the management is entitled to recover the one month notice pay from the worker and it can also adjust it while computing the other amount to be paid to the workman. It does not give any right of termination to the Management nor is it an automatic termination. Therefore, the termination only by issuing a notice without initiating a departmental enquiry and giving any opportunity to the petitioner to explain the charges, cannot be supported.

11. Moreover, the submissions of the petitioner that even before expiry of 7 days his services were terminated appears to be true. The notice is dt. 16—22-10-1988. It was received to him on 24-10-1988 and the management hastily terminated his services w.e.f. 29-10-1988. In fact the day of issuance of notice is to be excluded. The period of 7 days was to be counted from the date of receipt of the notice and then after clear expiry of 7 days the management was entitled to take any action as per the provisions of this standing order of treating him deserted and recovering the notice pay from his amount payable to him at the time of his termination etc. The evidence shows that he is terminated even before the expiry of 7 days from the date of issuance of notice. Besides this the management has thrown the representation or explanation of petitioner in response to notice in dustbin. The order nowhere discloses that it has considered, before passing a termination order. There is no whisper of his explanation though he was saying that he was ill etc. Without considering any submissions made by him the management concluded it as unauthorized absence. This appears to be totally illegal, the provision never permits the termination under this rule and without even considering the merits of his submissions. The action of management seems to be totally illegal. Hence the termination requires to be quashed.

12. The management has requested to allow it to prove the charges before the Tribunal. In case the Tribunal is of the opinion that the enquiry was necessary, it is ready to prove the charges. How this can be permitted. It is not the case that the management has initiated the enquiry and while considering its validity it was found illegal. Here no enquiry has been initiated and now the management wants to prove the charges before the tribunal. There are no reasons at all for not holding the enquiry against the petitioner when he was absent for a considerable long time right from 1983 till 1985. The chart shows that he has worked for few days in the above years. The management was never prohibited to take any action against him even earlier to 1988. The notice issued u/s 9(d) of standing order is only for the period from 15-6-1988 and now the management wants to prove the charges that he was absent even from 1983 till 1988. If such permission or liberty is given to the Management like Western Coalfields Ltd. having considerable large workers the duty of the Tribunal will only to perform. The domestic enquiry of the WCL only.

The Tribunal cannot be expected to be an enquiry officer of any management. In my view such liberty cannot be given to the petitioner as is lightly granted in cases of invalid enquiry. The allegations made by the Management regarding his absence and even that he might be running any illegal liquor shop instead of working in the colliery or he might have lost the interest in his work are true and correct how, the management now can be allowed to prove the charges against him. In such circumstances the permission as sought by the management for proving charges before the Tribunal cannot be accepted. In the result the termination order dt. 29-10-1988 will have to be set aside and the order of reinstatement will have to be passed.

13. So far as back wages is concern as it is illegal termination the workman is definitely entitled for the back wages and even for the full back wages. But here the petitioner has never pleaded and proved by evidence that he was without work right from the date of his termination and had no other source of income to maintain himself and his family. It is a fact that he had maintained a family and the allegations of the management are that he was running an illegal liquor shop. Again if the record is perused it is a fact that he had worked occasionally only prior to his termination. The chart filed by the petitioner supported by the other documents indicates that in the year 1983 he worked 166 days, in 1984, 87 and half day, in 1985 only 39 days, in 1986, 74 days, in 1987, 26 days and in 1988 of course upto month of October for 20 days. This indicates that the petitioner was not interested in work. The submissions of the management regarding running of an illegal liquor shop may be true. Even assuming that there was no termination order he would not have worked for the complete days in each year. The minimum attendance as per standing orders for underground workers is 190 days in a year. He has never completed 190 days during last 5 years before his termination and I do not think that he could have improved his attendance even had he remained in service. In such circumstances in my opinion 40% back wages will suffice to meet the ends of justice. I pass the following order.

ORDER

1. The termination order dt. 29-10-1988 being illegal is quashed and set aside. Instead it is ordered to treat the petitioner in the service.

2. The Management/Respondent is directed to reinstate the petitioner within a month from the date of publication of the Award.

3. The Management is further directed to pay 40% back wages to the petitioner from the date of his termination till the date of his reinstatement.

Hence this Award.

Dated : 4-5-2007

A. N. YADAV, Presiding Officer

नई दिल्ली, 1 जून, 2007

का.आ. 1836.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 77/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2007 को प्राप्त हुआ था।

[सं. एल-22012/81/2004-आई आर (सी एम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 1st June, 2007

S.O. 1836.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 77/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Chandrapur Area of Western Coalfields Limited, and their workmen, which was received by the Central Government on 1-6-2007.

[No. L-22012/81/2004-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE SHRI A. N. YADAV, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/77/2005

Date: 16-5-2007

**Petitioner/
Party No. 1** : Shri W. V. Panghate and 3 others,
through Shri Chandrakant Khandre,
General Secretary, Koyla Shramik
Sabha (HMS), C/o C. J. Khandre,
Near Mahakali Mandir, Chandrapur
Post, Chandrapur.

Versus

**Respondent/
Party No. 2** : The Chief General Manager,
Chandrapur Area of Western
Coalfields Limited, Post and Distt.
Chandrapur.

AWARD

(Dated: 16th May, 2007)

1. The Central Government after satisfying the existence of disputes between Shri W. V. Panghate and 3 others, through Shri Chandrakant Khandre, General Secretary, Koyla Shramik Sabha (HMS), C/o C. J. Khandre, Near Mahakali Mandir, Chandrapur Post, Chandrapur Party No. 1 and The Chief General Manager, Chandrapur Area of Western Coalfields Limited, Post and Distt. Chandrapur Party No. 2 referred the same for adjudication to this

Tribunal vide its Letter No. L-22012/81/2004 -IR(CM-II) dt. 23-9-2005 under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947) with the following schedule.

2. "Whether the action of the Management in relation to Chandrapur Area of WCL in denying promotion to S/Shri W. V. Panghate, D. R. Shende, V. N. Nikhar and B. M. Todekar, Sr. Mechanic (Excv.) to the post of Foreman T and S Gr. 'B' is legal and justified? If not, to what relief the workman is entitled?"

3. The petitioner and the management representative have filed a copy of settlement which has taken place out of the court. The parties have submitted the original settlement on record, which is having signature of Ramchandra Rao Personal Manager, Chandrapur Area, Shri C. J. Khandre General Secretary of Koyla Shramik Sangh, Shri Qureshi Area Personal Manager, G. Sharma Sub Area Manager, D. Ramrao Personal Manager (ER). It is signed by four witnesses also. It seems that the petitioners are satisfied after the management had issued a promotion order in their favour on 1-9-2006. They have agreed that they would not be entitled for any notional placement, if any on account of this promotions. Now there remained no disputes by filing a petition they have applied that it should be treated to have finally and fully settled the dispute between themselves in the terms incorporated in the agreement and they had requested to pass a compromise Award. Accordingly it is declared that the dispute has been settled by way of compromises between the parties and now there remains no dispute. In respect of the claim pending before this Tribunal.

Hence this award.

Dated: 16-5-2007

A. N. YADAV, Presiding Officer

नई दिल्ली, 1 जून, 2007

का.आ. 1837.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत पेट्रोलियम कॉ. लि. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय, एर्नाकुलम, कोच्चि, के पंचाट (संदर्भ संख्या 170/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-2007 को प्राप्त हुआ था।

[सं. एल-30012/26/97-आई आर (सी-I)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 1st June, 2007

S.O. 1837.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 170/2006) of the Central Government Industrial Tribunal/Labour Court, Ernakulam, Kochi now as shown in the Annexure in

the Industrial Dispute between the employers in relation to the management of Bharat Petroleum Corporation Ltd. and their workman, which was received by the Central Government on 31-5-2007.

[No. L-30012/26/97-IR (C-I)]
SNEH LATA JAWAS, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT:

Shri P. L. Norbert, B. A., L. L. B., Presiding Officer.

(Thursday, the 17th day of May, 2007/27th Vaisakha,
1929)

I. D. 170/2006

(I. D. 19/1998 of Labour Court, Ernakulam)

Workman : C. Sadhisana,
C/o P. N. N. Kaimal,
Munnappallil House,
Kollakkad P. O.,
Palakkad-678732
Adv. Shri Paulson, C. Varghese.

Management: The Senior Manager,
Bharat Petroleum Corporation Ltd.,
1, Ranganathan Gardens,
Opp. 11th Main Road,
Anna Nagar, P. B. No. 1212 and 1213,
Chennai-600040.
Adv. M/s. Menon and Pai

AWARD

This is a reference made by Central Government under Section 10(1)(d) of Industrial Disputes Act, 1947 for adjudication. The reference is:

"Whether the action of the management of Bharat Petroleum Corporation, Madras in terminating the service of Shri C. Sadhisana, an ex-clerk in the LPG Depot at Palakkad with effect from 28-2-1991 without complying provision of I. D. Act, 1947, is just, proper and legal? If not, what relief the workman is entitled?"

2. The facts of the case in brief are as follows:

The workman, Shri C. Sadhisana contends that he was appointed as clerk in the LPG depot at Palakkad of Bharat Petroleum Corporation Limited. He worked there continuously from 2-3-1987 to 28-2-1991. Thereafter he was denied employment on the ground that there was no work due to lock out. No notice was given and no compensation was also given. There was no departmental action against him during the service. The 2nd management was appointed

by the 1st management company as a Depot Manager for managing the affairs of the depot at Palakkad. There was another reference on a previous occasion by State Government to Labour Court, Kozhikode. Since that Court had no jurisdiction to adjudicate the dispute the claim was rejected without prejudice to the right of the workman to move appropriate Government for reference. Thus the present reference was made by the Central Government. The workman was employed directly by the 1st management and he was paid salary by the 1st Management. However he was denied employment without complying with the procedure u/s-25F of Industrial Disputes Act. If the records of the company are called for it can be seen that the workman was employed by the 1st management company. Hence the workman is entitled to be reinstated with back wages.

3. The 1st management filed a written statement contending that the workman was an employee of the 2nd management, Shri P. B. Achan and not the employee of the 1st management company. The 2nd management was a contractor engaged by the 1st management company. There is no master and servant relationship between the workman and the 1st management. Since there is no employer-employee relationship between the company and the workman the reference is not maintainable. The depot at Palakkad is a commission operated LPG depot. The operation of the depot was entrusted to Shri P. B. Achan, a contractor who had submitted the lowest quotation. The depot functioned from 1987 to 1991. When the Chief Controller of Explosives imposed certain restrictions for storage of LPG on account of safety and it became difficult for the company to continue the operation of the depot at Palakkad. Accordingly the contract with Shri P. B. Achan was terminated w.e.f. 1-3-1991. Consequently the 2nd management dispensed with the service of the workman. The 1st management has not denied employment to the workman. There is no lock out. The question of complying with the provision of S-25F of I. D. Act does not arise as the workman was not an employee of the company. The 2nd management was not the depot manager of the 1st management. He was only a contractor. The burden is on the employee to prove that he was employed by the 1st management. The contract labour is not abolished by notification u/s-10 of the Contract Labour (Regulations and Abolition) Act. Hence there is no obligation on the part of the 1st management to absorb the labourers of the contractor. Hence the workman is not entitled for any relief claimed.

4. The workman filed a rejoinder disputing and denying the allegations in the written statement and reiterating the contentions raised in the claim statement.

5. The points that arise for consideration are:

(1) Whether the workman is an employee of Bharat Petroleum Corporation Ltd.?

(2) Is the workman entitled to be reinstated ?

The evidence consists of the oral testimony of WW1 and documentary evidence of Exts. W1 to 15 on the side of workman and MW1 and Exts. M1 to 8 on the side of management.

6. Point Nos. (1) and (2) :

The Bharat Petroleum Corporation Limited is a Central Government owned company. It has its own procedure for selection and appointment of employees. The workman admits that he was not given an appointment order by the BPCL, but only promised to issue an appointment order (WW1). He says that he had applied for clerical post on information that there was vacancy in the depot at Palakkad and not on the basis of any paper advertisement. He says that he was interviewed and selected by the company and appointed by the company. However the company has the case that the workman was never appointed by them, but he was taken by the contractor, Shri P. B. Achan. According to the management company the LPG depot at Palakkad was started on commission basis through contractor, P. B. Achan. The infrastructure, like building, some furniture and telephone, were provided by the company. Rest of the things had to be arranged by the contractor for running the depot. The payment to the contractor was on commission basis. Therefore the company contends that the company had no involvement in the appointment of employees in the depot.

7. The workman was there in the depot from 1987 to 1991. The workman has produced Exts. W1 to 14 documents to prove that he was really employed by the company and not by Shri P. B. Achan who, according to the workman, was the depot manager, not the contractor. Ext. W1 is a certificate of employment issued by Shri Achan on 7-9-1990 certifying that the workman was working as clerk in BPCL LPG Staging Depot at Palakkad for a period of 3½ years. It is not in the letter pad of the company. But underneath the signature of Shri P. B. Achan a rubber seal is affixed. The seal is in the name of BPCL LPG Staging Depot, Palakkad. The management company strongly denies that it was issued by the company and also challenges the authority of Shri P. B. Achan to issue a certificate on behalf of the company. It is relevant to note that being a public sector company an employment certificate cannot be issued by any officer, but only by a designated officer. First of all there is no evidence to show that Shri P. B. Achan was Depot Manager or an employee of the company. Assuming that he was the depot manager if he had to issue an employment certificate, it would have been issued in the letter pad of the company. The workman was not able to show that Shri P. B. Achan was a competent officer to issue the certificate. The certificate is not one issued by the company and consequently it will not show that the workman was employed by the company.

8. Exts. W2 to 4 are wage slips issued to workman. It is seen signed by Shri P. B. Achan. The wage slip is a printed form as per Rule 29(2) of Kerala Minimum Wages Rules. But the management contends that it is as per the requirement of statute that the wage slip was issued by Shri P. B. Achan and it is not a wage slip or pay slip of the company. Ext. M6 is produced by the company to refute the contention of the workman that the payment was made by the company. It is a pay slip of the company issued to one of its employees, Shri B. Balagopalan. It is a printed pay slip in the name of BPCL. The salary of the employee under different heads are shown in the pay slip, like Basic Pay, DA, HRA and other allowances as well as deductions. Whereas in Exts. W2 to 4 a total sum of Rs. 800 is shown as the salary per month without specifications as to Basic Pay, DA, etc. It is evident that for the purpose of compliance with the requirements of Kerala Minimum Wages Rules printed wage slip was used by Shri P. B. Achan while disbursing salary to the workman. That is how Exts. W2 to 4 found a place among the records of depot. It is worth noting that Ext. M6 shows that the salary of a company employee (clerk) in 1987 was Rs. 1882, whereas the workman (clerk) as per Exts. W2 to 4 was drawing only Rs. 800 in 1990. The difference in salary itself will reveal that the workman was not an employee of BPCL.

9. Ext. W5 is service record of the workman. It is a printed form as per Rule 10(1)A of Kerala Shops and Commercial Establishments Rules. In the column for signature of employer Shri P. B. Achan has signed. The Establishment's name is shown as Bharat Petroleum Corporation LPG Staging Depot, Palakkad with rubber seal. The service record is maintained as per statutory requirement of the Kerala Shops and Commercial Establishments Act and Rules. The Management has strongly challenged the rubber seal of the company. It is also their case that the company's forms are printed forms in the name of the company and not by affixing rubber seal. The company also questions the authority of Shri P. B. Achan to maintain service records of employees of the company. Since Ext. W5 is a service record maintained as per statutory requirement and it is not in the printed form of the company it cannot be taken as a piece of evidence to prove the employment of the workman in the company.

10. Ext. W6 is a letter issued by Shri P. B. Achan to the Plant Manager of the Company at Madras. The letter was issued to inform the company that an employee, Shri V. R. Sunil had left the service and in his place the workman, Shri C. Sadhisani was appointed. The names of three clerical staff including the workman were also shown in the letter. The letter is issued in the letter pad of BPCL. The letter pad is one used by company for inter-office correspondence. It is contended by the workman that Ext. W6 will show that Shri P. B. Achan was acting as the Depot manager and as an officer of the company and not as a contractor. Therefore the workman too was an employee of

the company and not of the contractor. But the letter reveals that it was an intimation given to the company that the workman was appointed and there were two more clerical staff in the Depot. If the company had appointed the three clerks mentioned in Ext. W6 there was no need to inform the company that so and so was appointed and two other clerical staff were already working. On the other hand, it was for the company to inform Shri P. B. Achan that so and so was selected and appointed and he would be joining service in Palakkad Depot. The fact that the letter pad of the company is used for writing Ext. W6 will not help the workman to prove that either his appointment is made by the company or appointment of Shri P. B. Achan as Depot Manager. Regarding the appointment of Shri P. B. Achan there is documentary evidence produced by the management. Ext. M1 is an appointment order dated 27-2-1987 appointing Shri P. B. Achan as Operator of LPG commission-operated Depot at Palakkad. Exts. M2 and M3 are copies of orders extending the period of contract from 1988 to 89 and 1990. Ext. M4 is copy of agreement executed between company and Shri P. B. Achan. It contains various terms concerning the operation of the Depot. The entire responsibility of running of Depot including appointment, payment of salary to staff, maintenance and repair of the depot, distribution of LPG, financial liabilities, electric, water and communication charges, etc. are to be borne and done by Shri P. B. Achan. The operator had to furnish a bank guarantee also to the company. The operator had to reside at Palakkad at his own expenses. The payment of taxes, fees, etc. under law and remuneration and other benefits to staff had to be borne by the operator/contractor. Clause 7 of the agreement says that the company will supply to the operator its standard forms for delivery documents, returns, etc. against a monthly requisition and only those forms as appropriate shall be used by operator. Thus Shri P. B. Achan was appointed as contractor and not as Depot Manager. There is absolutely no piece of evidence to prove that Shri P. B. Achan was ever recognized by the company as its employee or anything to show that salary was paid to Shri P. B. Achan by the company. A letter pad of company was used by Shri P. B. Achan to write Ext. W6. It was supplied as per Clause 7 of Ext. M4 agreement referred above. That will not help the workman to prove his case that he is an employee of the company.

11. Ext. W7 is a certificate issued by Assistant Commissioner of Sales Tax, Ernakulam to BPCL on 20-6-1987 certifying that BPCL is a registered dealer under KGST Act and that they have a branch office at Palakkad, and that registration was renewed for the period 1987-88. The Depot at Palakkad is owned by BPCL and necessarily the registration has to be taken in the name of BPCL, not in the name of contractor. This will not indicate that the Depot was run directly by the company.

12. Ext. W8 is a registration certificate issued by Assistant Labour Officer, Palakkad to BPCL LPG Staging

Depot, Palakkad. The name of employer in the certificate is shown as Shri P. B. Achan. The number of employees is shown as 3. The certificate is issued under Kerala Shops and Commercial Establishments Act. There are specific columns for names of employer and employees and the names are as mentioned above. The certificate reveals that so far as the Depot at Palakkad is concerned, the employer was Shri P. B. Achan. Naturally 3 employees in the Depot were under him.

13. Exts. W9 and 10 are muster rolls relating to August, 1990 and February, 1991. The names of 3 employees are shown in the muster roll and attendance is marked. The muster roll is in the prescribed form as per Rule 130 of Kerala Factories Rules. The rubber seal of Bharat Petroleum Corporation LPG Staging Depot is affixed. MW1 denies that these are muster rolls of the company. According to him, if it were so, it would have been in company's printed form. At any rate, Exts. W 9 and 10 will not go to show that the 3 employees mentioned therein are the employees of the company.

14. Exts. W11 and 12 are registers of wages for the relevant periods. The 3 workers in the Depot had signed the registers and obtained their wages. The Register of Wages is a printed form as per Rule 29(1) of Kerala Minimum Wages Rules. The name of Depot is shown by affixing rubber seal. MW1 denies that the seal belongs to the company and further that the Register of Wages is not that of the company. If it were the Register of Wages of the company it would have been in company's printed form. The workman has no case that the salary was paid by any officer of the company other than Shri P. B. Achan. But the workman says that Shri P. B. Achan is the branch manager of the depot. I have already mentioned that he is not branch manager of the depot, but only a contractor. Therefore Exts. W11 and 12 will not come to the help of the worker.

15. Exts. W13 and 14 series are cash memos issued to purchasers of LPG from Palakkad Depot. It is seen issued by the workman to dealers. The cash memos are in the printed form of BPCL. These forms are issued to the Depot by the company as per Clause 7 of Ext. M4 agreements with Shri P. B. Achan and the Depot has to utilize the prescribed forms issued by the company while distributing LPG to dealers. The staff in the Depot has to do the clerical work with regard to distribution of LPG. The workman was authorized by Shri P. B. Achan to sign cash memos as per Ext. M6. The authorization was done by Shri P. B. Achan, not by the company. Since the Depot was being run by the contractor, Shri P. B. Achan, at his direction cash memos were issued by the workman. The other two clerks were also authorised to issue cash memos to purchasers of LPG. Therefore Exts. W13 and 14 series cash memos also will not show that the workman is an employee of the company.

16. It is to be noted that WW1, when he was cross-examined, stated that he does not know whether Shri P. B.

Achan was appointed as a contractor. He also said that he was not aware whether the depot was entrusted on contract basis to Shri P. B. Achan. On the other hand Exts. M1 to 4 prove the case of the management that Shri P. B. Achan was a contractor entrusted to run the depot at Palakkad on commission basis. Thus the workman was not able to prove that there is any relationship between BPCL and him in the matter of employment, without which he cannot claim to be a 'workman' falling within the definition of S-2(s) of I. D. Act or any of the provisions of I. D. Act. The contract of Shri P. B. Achan was renewed from year to year until 28-2-1991. Then the Depot was stopped. When the contract came to an end the employment of workers under the contractor too came to an end. At any rate there was no direct relationship between the workman and the company. He was never appointed by the company and he was not paid by the company. He was also not terminated from service by the company. Therefore he cannot have any remedy against the company. There is no violation of any service conditions by the company. As a result, he is not entitled for reinstatement or back wages. The points are answered accordingly.

17. It has become necessary to mention about the array of 2nd management as a party in the claim statement of the workman as well as the reference to the 2nd management by the 1st management company in their written statement. But on going through the file it is seen that as per reference there is only one management and that is BPCL. It is by mistake that in the claim statement the workman has mentioned 2nd management in the cause title. Probably it is an oversight on a wrong impression that since there were two managements in the previous reference which culminated in Ext. W15 award, in the present reference too there are two managements.

18. In the result, an award is passed finding that the action of the management, Bharat Petroleum Corporation Limited in terminating the service of Shri C. Sadhisani is legal and proper as he was not an employee of the company and there is no violation of any provisions of I. D. Act. The workman is not entitled to any relief. No cost. The award will take effect one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 17th day of May, 2007.

P. L. NORBERT, Presiding Officer

APPENDIX

Witness for the Workman :

WW1 —C. Sadhisani—31-12-2001.

Witness for the Management :

MW1 —K. Sankaran—14-8-2002.

Exhibits for the Workman :

- W1 —Employment certificate dated 7-9-1990 issued to Shri C. Sadhisani.
- W2 —Wage slip dated 31-8-1990.
- W3 —Wage slip dated 30-9-1990.
- W4 —Wage slip dated 31-11-1990.
- W5 —Copy of service record.
- W6 —Copy of the letter dated 17-2-1988 issued by COD, Palakkad to Sr. Plant Manager, Madras.
- W7 —Copy of certificate dated 20-6-1987 issued by Asstt. Commissioner of Sales Tax, Ekm.
- W8 —Copy of registration certificate issued under Kerala Shops and Commercial Estts. Act.
- W9 —Copy of muster roll.
- W10 —Copy of muster roll.
- W11 —Copy of Wage Register for the period from 1-7-1990 to 31-7-1990.
- W12 —Copy of Wage Register for the period from 1-1-1991 to 31-1-1991.
- W13 —Copy of cash memo.
- W14 series—Copies of cash memos (4 Nos.)
- W15 —Copy of award in I. D. 51/94 of Labour Court, Kozhikode and its Gazette Notification dated 20-10-1995.

Exhibits for the Management :

- M1 —Copy of appointment order dated 27-2-1987 appointing Shri P. B. Achan as Operator of LPG Commission Operated Depot at Palakkad.
- M2 —Copy of order extending the period of contract, dated 6-1-1989.
- M3 —Copy of order extending the period of contract, dated 5-3-1990.
- M4 —Copy of agreement dated 18-4-1990 between company and Shri P. B. Achan.
- M5 —Copy of intimation of closing down the depot, dated 27-2-1991.
- M6 —Copy of pay slip.
- M7 —Copy of appointment order dated 3-5-1991 issued to Smt. K. Sheela.
- M8 —Voucher of BPCL.

नई दिल्ली, 1 जून, 2007

का.आ. 1838.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इण्डिया के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 183/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2007 को प्राप्त हुआ था।

[सं. एल-12012/247/2000-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 1st June, 2007

S.O. 1838.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 183/2000) of the Central Government Industrial Tribunal/Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workman, which was received by the Central Government on 1-6-2007.

[No. L-12012/247/2000-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/183/2000

Shri C. M. Singh, Presiding Officer.

Shri Chandrakant Burman,

C/o Shri N. K. Patel,

Dy. General Secretary,

State Bank of India Staff Congress,

5/235, Pragati State Bank Staff Colony,

Vikasnagar,

Jabalpur (M. P.)-482002

... Union/Workmen

Versus

The Assistant General Manager, Region-I,

State Bank of India, Divisional Office,

Civil Centre, Marathal,

Jabalpur (M. P.)-482002

... Management

AWARD

Passed on this 15th day of May, 2007

1. The Government of India, Ministry of Labour vide its Notification No. L-12012/247/2000-IR (B-I) dated 16-10-2000 has referred the following dispute for adjudication by this tribunal :

“Whether the action of the management of State Bank of India, Madhatal, Jabalpur in terminating the

services of Shri Chandrakant Burman, Temporary Messenger w.e.f. 16-8-1999, while he has worked in Devgan Branch of the Bank from 8-1-1994 to 15-8-1999, is justified? If not, what relief he is entitled to?”

2. The case of workman Shri Chandrakant Burman in brief is as follows :

That he was in the permanent employment as messenger/waterman at the branch of State Bank of India, Devgan (Katni) w.e.f. 8-1-1994 to 15-8-1999. He worked for more than 240 days in every year. His services were terminated on 15-8-1999 without any reasonable cause which is an illegal act. He prayed for reinstatement with all back wages and benefits.

3. Vide order dated 8-5-2007 of this Tribunal the reference proceeded ex parte against the Workman/Union. The order dated 15-5-2007 reveals that Shri Vijay Tripathi, Advocate for the Management made submission that no evidence is to be adduced on behalf of Management and no argument is to be submitted for the Management. He requested for closing the reference for award. Therefore the reference was closed for award.

4. It is a case of no evidence by the parties. Under the circumstances, the reference deserves to be answered in favour of the management and against the Workman/Union without any order as to costs. It is, therefore, held that the action of the management of State Bank of India, Marhatal, Jabalpur in terminating the services of Shri Chandrakant Burman, Temporary Messenger w.e.f. 16-8-1999, while he has worked in Devgan Branch of Bank from 8-1-1994 to 15-8-1999, is justified. Consequently the workman is not entitled to any relief. The party shall bear their own costs of this reference. The reference is answered accordingly.

5. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 1 जून, 2007

का.आ. 1839.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईस्टर्न रेलवे के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 27/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2007 को प्राप्त हुआ था।

[सं. एल-41012/119/2003-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 1st June, 2007

S.O. 1839.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No. 27/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the management of Eastern Railway and their workman, received by the Central Government on 1-6-2007.

[No. L-41012/119/2003-IR(B-I)]
AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW PRESENT

Shrikant Shukla, Presiding Officer.

I.D. No. 27/2004

Ref. No. L-41012/119/2003-IR(B-I) dt. 13-2-04

BETWEEN

Sri Nand Kishore S/o Jagdev,
Village-Bolia Pandey,
Post Raita Kothi,
Distt. Bewaria (U.P.)

AND

The General Manager,
Eastern Railway,
Gorakhpur-273001

The Railway Road Inspector (Const.)
Eastern Railway,
Gonda

AWARD

The Government of India, Ministry of Labour, New Delhi referred the following dispute vide No. L-41012/119/2003-IR (B-I) Dt. 13-2-2004 for education to the Presiding Officer, CGIT-cum-Labour Court, Lucknow:

“क्या रेल पथ निरीक्षक (निर्माण), पूर्वोत्तर रेलवे गण्डा द्वारा कर्मकार श्री नन्द किशोर आत्मज श्री जगदेव की दि. 23-12-76 से सेवा समाप्त किया जाना न्यायोचित है ? यदि नहीं, तो कर्मकार किस अनुतोष का हकदार है ?”

The worker has alleged in his statement of claim that he was engaged as casual labour on 16-3-75 at Tikoniya and had worked w.e.f. 16-3-75 to 23-12-76 continuously as casual Khalasi and acquired the status of temporary railway servant and in this view the service could not have dispensed with by the opposite party on 23-12-76 without assigning any reason or without giving him notice and compensation. Any deviation or departure from the provision under section 25F of the I.D. Act while terminating the services of workman concerned would render the same is illegal and unjustified. It is also stated that the workman concerned raised industrial dispute with some other casual labours which was referred for

adjudication before CGIT-cum-Labour Court, Kanpur which was I.D. 71/96. The Tribunal did not adjudicate the said disputes and returned unanswered. workman concerned with other casual labours moved an application to the Secretary Ministry of Labour, Govt. of India, New Delhi. After considering the said application the Government directed to raise industrial dispute fresh vide letter dt. 20-10-2000 and accordingly workman concerned raised the industrial dispute and government referred the dispute vide order dt. 11-3-2004. It is submitted that there is no delay in raising industrial disputes and the stands explained by the worker. Workman has therefore prayed that the action of the management in terminating the services of the workman w.e.f. 23-12-76 be declared illegal and bad in law and accordingly workman be reinstated back in service with continuity of service and all consequential benefits arising therefrom including back wages. Workman filed attested photo copies purported to be record of casual labour.

The opposite party disputed the claim and denied that the worker was ever engaged by the opposite party as alleged. It has been submitted by the opposite party that the worker has put false concocted and imaginary facts. It is specifically denied that the worker ever worked under opposite party or acquired temporary status. The worker has filed rejoinder wherein the worker has stated that he has worked for 658 days w.e.f. 16-3-75 to 23-12-76 without any break in service. Thus as per Railway Manual and provision of I.D. Act, 1947 his services would not have dispensed with by the opposite party without assigning any reason, notice, retrenchment compensation. It has been reiterated that worker has acquired temporary status of railway servant. Worker has filed photo copies of the following documents; Certificate of PWI (Construction) 13-2-91 showing 648 days working paper No. 20/4.

Worker has also filed photo copy of the following documents :

1. Record of service of casual labour of Nand Kishore showing 658 days of work from 16-3-75 to 23-12-76, certificate, age certificate of Gram Sabha, Bolia Pandey 1-1-75.
2. Photocopy of school leaving certificate 15-9-95.
3. Photocopy of his own application.
4. Photocopy of order passed in I.D. 71/96.
5. Photocopy of unsigned letter addressed to Secretary Ministry of Labour alongwith list of some worker dt. 5-10-2001.

Worker has examined himself. Opposite party has not produced any evidence. Heard the arguments and perused written arguments submitted by the parties. Following facts are material in the present case.

The worker's allegation is that he was terminated from 23-12-76 and he worked w.e.f. 16-3-75.

According to the own submission of the worker that he alongwith other worker raised I.D. 71/96 before CGIT-cum-Labour Court, Kanpur which was numbered as 71/96. No. original document have been filed nor certified copy of the award passed in I.D. 71/96. But even then whatever worker has stated is taken to be true there is the delay of approximately 20 years in raising the dispute after alleged termination w.e.f. 23-12-76. Opposite party is not expected to retain the casual labour record for such a long years. So there is abnormal delay in raising the dispute which has caused the management of railways a considerable prejudice.

Worker has alleged that he worked during 16-3-75 to 23-12-76 for 658 days but the record which has been produced before the court has been scrutinised by me. I have carefully calculated the number of days given in record of casual labour paper No. 7/5. After calculating the days it comes out to 618 days and not 658 days as written in the said record of the casual labour paper 7/5.

It is evident from the paper No. 7/5 that there is no signature of any officer on paper No. 7/5 and the same is blank but the worker has again produced the photocopy of casual labour card alongwith application C-21 wherein I find the signature of Railpath Nirikshak, Sri Swami Nath. Again I find the same PWI issuing the certificate mentioning 648 days. It is not possible for the railways to dig out a person after such a long lapse to disprove the worker's case but on over all evaluation of the evidence of the worker the said document appears to be not genuine. It is further clarified that the worker ought to have produced the original certificates for corroborating his case. It is also not worthy that worker has filed the certificate of Gram Pradhan, though original has not been produced and the one produced before the court is not signed and has over writing which makes it fictitious. Even if it is presumed that worker through trade union raised the industrial dispute No. 7/96 even then it had delay. Worker has measurably failed to justified the delay. It is also noteworthy that so called record of service of casual labour shows that upto 23-12-76 the workman worked as follows :

From	To	No. of days
16-3-75	31-3-1975	16 days
1-4-75	30-4-1975	30 days
1-5-75	31-5-1975	31 days
1-6-75	30-6-1975	30 days
1-7-75	31-7-1975	31 days
1-8-75	30-8-1975	31 days
1-9-75	30-9-1975	30 days
1-10-75	31-10-1975	31 days
1-11-75	31-12-1975	31 days
1-1-1976	30-6-1976	181 days
1-7-1976	23-12-1976	176 days

The representative of the workman has argued that workman concerned has rendered continuous service for more than 240 days in one calendar year. The railway management has dispensed with the service of the worker w.e.f. 24-12-76 without making payment of retrenchment compensation or notice pay in lieu thereof and hence the termination of the workman amounts to be in the breach of provision of Section 25F of the I.D. Act and the workman is entitled to reinstated in the services of the railway management. In support of his case the workman testified himself on oath before Tribunal apart from filing of documentary evidence such as casual labour card issued by the railway and is available in the record. The oral testimony of the workman has been corroborated by the documentary evidence as well. In this way the workman has been able to establish his case to the effect that he render continuous service for more than 240 days precedings 12 months from the date of illegal termination i.e. 24-12-76 and the management has failed to put witness in the witness box before the court.

On the other hand the representative of the management has argued that if a person was not in service what negative evidence he has produce in the court. The case has come up before the court after 30 years and the management cannot have any record of such old time and if the claim statement is allowed in the circumstances there will be miscarriage of Justice. Representative of the management has also argued that the railway establishment is vast deparment and employed highest number of labourers and casual labour book is issued to them. Any worker engaged as casual labour is issued casual labour book mentioning therein monthwise working days of the worker with the initial of the railway officer. He has argued that worker has concocted the false story that he was terminated about 30 years back and has also argued that photo copies of the documents produce before this court are false and not genuine.

The representative of the management has also argued that worker has not produced satisfactory documentary evidence to prove that he was a casual labour and that as has required temporary status and in the circumstances he should not be believed.

The representative of the opposite party has argued that there appears to be break in service as the worker has worked 31 days in 2 months i.e. from 1-11-75 to 31-12-75 but when he was cross examined he said "मुझे नौकरी में कोई नागा नहीं दिया। मुझे एक दिन भी नहीं बैठाया गया। नौकरी में यदि break है तो लिखने वाला जाने। यह सही नहीं है कि मुझे बीच में बैठाया गया। Temporry Status के बारे में कोई प्रमाण नहीं है।"

The representative of the opposite party has argued that there is concoction and such contradictions bound to come as called service record filed by the worker is forged.

On considering the entire evidence on record I come to the conclusion that evidence of the workman is not trustworthy and it can not be believed that workman was ever in the employment of the opposite party. The issue therefore is decided against the workman and therefore he is not entitled to any relief.

Lucknow
24-5-2007

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 1 जून, 2007

का.शा. 1840.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीजापुर ग्रामीण बैंक के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, बंगलूर के पंचाट (संदर्भ संख्या 114/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2007 को प्राप्त हुआ था।

[सं. एल-12011/14/1999-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 1st June, 2007

S.O. 1840.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 114/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the management of Bijapur Gramina Bank and their workman which was received by the Central Government on 1-6-2007.

[No. L-12011/14/1999-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated 24th May, 2007

PRESENT

Shri A.R. Siddiqui, Presiding Officer

C.R. NO. 114/99

I PARTY

The General Secretary,
Bijapur Grameena Bank,
Employees Association,
Vital Niwas, Assan Road,
Bijapur 586 101

II PARTY

The Chairman,
Bijapur Grameena Bank,
Head Office,
P.B. No. 30, Vivek Nagar (West),
Bijapur.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12011/14/99-IR (B-I) dated 22nd October, 1999 for adjudication on the following schedule :

SCHEDULE

“Whether the action of the management of Bijapur Grameena Bank, Head Office, Bijapur is legal and justified in denying TA/DA to defence representatives. If not to what relief the defence representatives are entitled ?”

2. The case of the first party union, represented through the General Secretary, as made out in the Claim Statement, in brief, is that there is a practice in all the Regional Rural Banks to facilitate the management representative participating on behalf of the management in the Domestic Enquiries being held against the delinquent employees with the TA and DA. But the co-workers who appeared as a defence representatives in the domestic enquiries conducted against the delinquent workmen, there is no such provision or facility available to the Defence Representatives to claim TA and DA though in most of the cases the delinquent workman had to meet the expenses of their defence representatives with respect to lodging and boarding, therefore, unless the TA and DA is given to the Defence Representatives, it will amount to compelling the charge sheeted workman to spend money tantamounting to a punishment in itself; that the neighbouring RRB Tungabhadra Grameena Banks operating in Bellary and Raichur districts have been providing TA and DA to the Defence Representatives and Defence witnesses also and in case such TA/DA facilities is extended to the Defence Representatives it will further the cause and principles of natural justice and in case it is denied it will be undue hardship to the charge sheeted employees and it will amount to discrimination in the process of holding domestic enquiry. Moreover, denial of such a facility to the employees of the Bijapur Grameena Bank as against the employees working in other Regional Rural Banks will be a differential treatment amounting to discrimination and therefore, the management may be directed to pay the TA and DA to the Defence Representatives.

3. The management by its counter Statement however, contended that the demand made by the first party union is not maintainable either in law or on facts as the Staff Service Regulations of Bijapur Grameena Banks framed by the Board of Directors after consultation with the Syndicate Bank/NABARD/Reserve Bank of India and the prior sanction of the Central Government applicable to all the officers and employees of the bank in the matter of any allowance or other benefits do not provide a provision or benefit of payment of TA/DA to the Defence

Representatives appearing for the charge sheeted employees, since those Staff Service Regulations, 1983 of the bank revised in the year 2001 did not provide such a facility to the Defence Representative. However, on receipt of the demand from the first party union, the management sought clarification from the NABARD and in response to the said clarification received a letter dated 28-12-1996 stating that there is no such provision under the above said Regulations and therefore, the demand of the first party union cannot be acceded to; that these staff service regulations have got statutory force and bind both the employees and the management; that as per the guidelines received from the sponsor bank namely, the Syndicate Bank, the second party management however, extended the benefit of TA/DA to the Defence Representatives w.e.f. 1-1-2002 and thereby the demand of the first party union has been fulfilled. This benefit of TA/DA has been extended to the Defence Representatives with prospective date and in the result the union now cannot claim the benefit for the earlier period as there was no provision in the Service Regulations to that effect earlier to the above said date. Therefore, the management requested this tribunal to reject the reference.

4. During the course of trial, the management on its behalf examined one Mr. K. Panduranga, Senior Manager, Personnel & Secretariat of the management bank by filing his affidavit evidence as MW1. In his affidavit said witness just reiterated the various contentions taken by the management in its counter Statement. In his further examination chief three documents namely, the aforesaid Staff Regulations, 1983, the letter written by the Chairman of the Bijapur Grameena Bank, Head office to the Management Bank and the Circular dated 1-1-2002 were marked at Ex-M1 to M3. There was no cross examination to this witness on behalf of the first party union, he being discharged there being no representation on behalf of the union as on the date the witness was present for his cross examination. The first party union also did not come forward to lead any oral or documentary evidence, thereafter. On 24-4-2007 when the matter was posted for evidence of first party union, once again there was no representation from the first party union. Therefore, the matter was taken closed and after hearing the learned counsel for the management it is posted this day for award.

5. Learned counsel for the management in his arguments submitted that the aforesaid staff regulations since did not provide facility/benefit of availment of TA/DA to the Defence Representatives, question of any payment towards TA/DA never arose. He submitted that thereupon the management bank received clarifications with regard to the payment of TA/DA benefit to the Defence Representatives by way of the aforesaid circular at Ex.M3 w.e.f. 1-1-2002 such a benefit is being extended and therefore, the demand of the first party union having been fulfilled as on today the reference is liable to be rejected as the dispute no more survive.

6. I find substance in his arguments. Undisputedly, there has been no such provision under the aforesaid staff regulations with regard to the payment of TA/DA benefits to the Defence Representatives. It is also not the case of the first party union that such a benefit is being denied to the Defence Representatives despite any such provision or rule under the aforesaid staff regulations. The only contention taken by the first party union is that such a benefit was being extended to the Defence Representatives by the other regional rural banks and therefore, ends of justice demanded for such a provision/benefit to the Defence Representatives of the management bank employees, merely because such a benefit is available to the Defence Representatives appearing for the charge sheeted employees working under other Regional Rural Banks, the first party union in this case cannot claim the said benefit by way of right. The first party union as noted above, neither adduced any oral or documentary evidence in support of its claim nor challenged the statement of MW1 to the effect that under the aforesaid staff regulations the first party union cannot maintain the present claim. Moreover, as seen above, the demand in question has been fulfilled by the management by issuing the guidelines as per the circular marked before this tribunal at Ex.M3. Para 10 (VI)(2) of the aforesaid circular as provides the benefit of TA and DA to the Defence Representatives and this benefit has been extended to them prospectively w.e.f. 1-1-2002. As per the reference schedule there is no demand by the first party union with respect to TA and DA to the Defence Representatives earlier to the date of reference or from the date of the reference or from any specific date. The reading of the reference schedule will just speak to the demand of the first party union without giving any specific date. In the Claim Statement also the first party did not make out any case or had given any date from which date the Defence Representatives should be paid TA/DA by the management bank. Therefore, keeping in view the evidence produced by the management and at the same time taking into consideration the fact that the first party union did not come forward to establish its claim much less from a particular specific date and so also taking into account the fact that the demand of the first party union has already been met by the management, there is no hesitation in the mind of this tribunal to come to the conclusion that the dispute raised by the first party union not only fails on merits but also does not survive any more and hence reference is liable to be dismissed. Hence the following Award:

AWARD

The reference stands dismissed. No costs.

(Dictated to PA, transcribed by her, corrected and signed by me on 24th May 2007).

A.R. SIDDIQUI, Presiding Officer

नई दिल्ली, 1 जून, 2007

का.आ. 1841.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ़ मसूर के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, बेंगलूर के पंचात (संदर्भ संख्या 08/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2007 को प्राप्त हुआ था।

[सं. एल-12012/234/2004-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 1st June, 2007

S.O. 1841.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 08/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the Industrial Dispute between the management of State Bank of Mysore and their workmen, which was received by the Central Government on 1-6-2007.

[No. L-12012/234/2004-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 17th May, 2007

PRESENT

Shri A. R. Siddiqui, Presiding Officer

C. R. No. 08/2005

I PARTY

Shri S. T. Srinivas,
No. 289, 3rd Cross,
Nagappa Street,
Palace Gutthalli,
Bangalore-560 003

II PARTY

The General Manager,
State Bank of Mysore,
Head Office, K. G. Road,
Bangalore-560 009

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/234/2004-IR(B-II) dated 28th December, 2004 for adjudication on the following schedule :

SCHEDULE

"Whether the management of State Bank of Mysore is justified in removing Shri S. T. Srinivas, a Temporary Attender, from the services of the Bank in the year 1989? If not, to what relief he is entitled to?"

2. The case of the first party workman, as made out in the Claim statement, in brief, is that he being appointed as Attender in the State Bank of Mysore in the year 1986, has discharged his duties in various branches such as Cunningham Road Branch, Sheshadripuram Branch. Between 16-1-1984 to 27-8-1987 he was working in S C Road, SBM branch against the clear vacancy on account of death of Shri Muniraju and Shri Harshawardhana and in between 1987 and 1989 he worked against the vacancy of Shri Satyanarayana Rao and Shri Bhaskar; that subsequently in the year 1987 and 1989 while he was working at S C Road Branch, he was temporarily removed from service in pursuance to the complaint lodged by the Branch Manager to the police under Section 468 & 420 of IPC; that after investigation the police filed a "B" Report and charges against the first party were dropped and he was acquitted. However, despite his innocence being proved he was not taken back in service. He filed a civil suit against the management seeking the reinstatement in service and that was disposed of in the year 2003; that the first party worked continuously for a period of more than 240 days therefore, his case should have been considered for reinstatement on regularisation but the management did not do so and that shows a clear case of victimization. He made requests on several occasions for his reinstatement but in vain. Finally on 10-12-2003 he gave representation to consider his case. The first party then referred to paras 20.7, 20.8 and 2.12 of the Bipartite Settlement to show that temporary workman also is a workman appointed temporarily against permanent vacancy etc. He requested this tribunal to pass an award reinstating him in service giving all other benefits.

3. The management by its counter statement while resisting the claim of the first party among other grounds contended that by his own admissions the first party was working as a temporary peon and never worked in any of the branch of the bank for a period of 240 days and more in any block period of 12 months. The management contended that though the first party was involved in a case of fraud and misappropriation and in fact deposited the misappropriated amount, the management did not take any disciplinary action against him he being a temporary peon. The management contended that the first party is not entitled for any relief either for reinstatement or for absorption as claimed. The management also contended that the present reference and the dispute is liable to be dismissed being a state dispute raised after a lapse of a period of 15 years from the date of alleged termination of the services of the first party.

4. During the course of trial, the management examined the branch Manager, SBM, SC Road branch as MW1 and got marked four documents namely, the certificates issued in favour of the first party at Ex. M1 to M4. His statement in brief was that the first party was

doing the job of temporary peon against the leave vacancy of permanent peon and he did not work continuously for a period of 240 days in any of the branch of the management bank. In his cross examination nothing worth was elicited except to elicit that 'B' Report was filed by the police and the case against the first party was closed. It was elicited that the said Shri Muniraju and Shri Harshawardhana who were working as Peons expired and there was clear vacancies on account of their deaths. It was elicited that no muster roll, attendance register etc. have been produced by the management and that no records are available with the management for having engaged the first party. MW1 was unable to say if during the year 1986 to 1989 the first party worked continuously for a period of 240 days and more in each calendar year.

5. As a rebuttal, the first party filed his affidavit evidence reiterating the averments made in the Claim Statement. In his further examination chief he produced 3 attendance certificates marked at Ex. W1 series (M1, M3 & M4). He also produced extract of two death certificates of Shri Muniraju and Shri Harshawardhan at Ex. W2 series, police 'B' report at Ex. W3, letter dated 21-7-1990 written by the Manager to the Sub-Inspector of Police at Ex. W4. In his cross examination he admitted that he joined the services of the bank as a temporary peon and contents of Ex. W1 series are correct. He denied the suggestion that he was engaged by the bank whenever permanent peons were absent from duty for some reason or the other. He admitted that his name was not sponsored by the Employment Exchange. He denied the suggestion that he did not work for 240 days continuously in any of the calendar year. He admitted that he was interrogated by the police as per Ex. M6.

6. Learned counsel for the first party vide his written arguments, once again repeating the various contentions of the first party made in his Claim Statement, further contended. His next contention that the management failed to produce the muster roll, attendance register etc. which records would have disclosed as to whether the first party worked or not continuously for a period of 240 days in any calendar year. He took support of the documents at Ex. W1 to W4 in support of the case of the first party to prove that he was working with the management bank during the year 1986 to 1989.

7. Whereas, the learned counsel for the management in his arguments submitted that the reference in the first instance is to be dismissed for the undue delay caused in raising the dispute. He took support of a decision reported in (2001) 1 SC cases 424 and a decision reported in AIR 2000 SC 839 and other two decisions. He also contended that the first party being engaged on temporary basis and since he did not work continuously for a period of 240 days, he cannot take the benefit of Section 25F of the ID Act to challenge the alleged termination of his services by

the management. In this respect he quoted decisions reported in JT 2002(2) SC 238, 2004(8) SCC 161, 2004 LAB IC 4041 SC and AIR 1997 SC 3657.

8. After having gone through the records I find substance in the arguments advanced for the management. Keeping in view the respective contentions of the parties and the evidence brought on record the only relevant point to be considered is whether the first party worked continuously for a period of 240 days and more during the block period of 12 months immediately preceding the date of his alleged termination from services. The first party himself has produced three certificates marked at Ex. W1 series to show as to for how many days he worked with different management branches. The first certificate produced by him is dated 16-12-1987 suggesting that he worked for 17 days during the year 1986 and for 9 days during the year 1987 as a temporary peon at State Bank of Mysore branch. The second certificate dated 21-12-1987 reads to the effect the first party worked temporarily for 27 days during the calendar year 1986 at the Cunningham Road branch. The third certificate dated 19-5-1989 shows that he worked for a period of 144 days totally during the years 1987 to 1989. As per the details given in the certificate it can be seen that the first party worked for a period of 22 days in the month of February 1989 and for 8 days in the month May 1989. He worked for a period of 30 days in the month of December 1988 and for a period of 84 days in the year 1988. Therefore, the first party during the years 1987 and 1989 put together hardly worked for a period of 144 days. He never worked for a period of 240 days in any calendar year as per the aforesaid three certificates produced by him in support of his case. The management also produced these three certificates along with another certificate dated 29-11-1988 and according to this also the first party worked hardly for a period of 84 days in between 16-1-1984 and 27-8-1987. The other documents produced by the first party namely, the said two death certificates of Shri Muniraju and Shri Harshawardhana to show that after their death he worked in their place against the permanent vacancy will be of no help to the first party in any way. Only because he worked as against the permanent vacancy he will get no rights either to claim reinstatement or to claim absorption in service on permanent basis. He admittedly being a temporary peon will succeed in the present case only after he establishes that he worked for a period of 240 days and more continuously in a block period of 12 calendar months that too preceding immediately to the date of his alleged termination. In the instant case as noted above, in between the year 1984 & 1989 he never crossed his continuous service for a period of 240 days much less continuous service of 240 immediately before his alleged termination. In fact, as per the averments in the claim statement he is not sure as to whether his services were terminated in the year 1987 or 1989. As seen above, he worked hardly for a period of 30 days in the year 1988 and

for a period of another 30 days in the year 1989. The contention of the first party that the management should have produced muster roll and attendance register in order to find out as to how many days he worked with the management is not tenable for the simple reason that the burden squarely cast upon the first party himself to substantiate his case for having worked 240 days and more continuously in any block period of 12 months. Moreover, when the first party himself has produced the certificates referred to supra, he cannot be allowed to contend that he had worked with the management bank branches for the period beyond the period mentioned in those certificates. Therefore, claim of the first party must fail.

9. Even otherwise, as contended for the management and the principle laid down by their Lordship of Supreme Court on the point of delay in the aforesaid decisions, the present dispute deserves to be rejected for the simple reason that it has been raised by the first party after a lapse of period of 15 years from the date of the alleged termination, that too, without giving any explanation for the delay caused. As on the date the dispute was raised, certainly, it was a stale dispute and therefore, on this count also the reference deserves to be rejected.

Hence the following award :

AWARD

The reference is rejected. No costs.

(Dictated to PA, transcribed by her, corrected and signed by me on 17th May, 2007).

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 12 जून, 2007

का.आ. 1842.—केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. 4891 दिनांक 11-12-2006 द्वारा ईंधन गैसों (कोयला गैस, प्राकृतिक गैस और ऐसी अन्य) के प्रसंस्करण एवं उत्पादन में लगे उद्योग में सेवाओं को जोकि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 29 में शामिल है, को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 15-12-2006 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 15-6-2007 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फा. संख्या एस-11017/2/2003-आई आर (पी एल)]

गुरजोत कौर, संयुक्त सचिव

New Delhi, the 12th June, 2007

S.O. 1842.—Whereas the Central Government having been satisfied that the public interest so requires that in pursuance of the provisions of sub-clause (vi) of the clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 4891 dated 11-12-2006 the service in the industry engaged in the Processing or Production of Fuel Gases (Coal Gas, Natural Gas and the like) which is covered by item 29 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a Public Utility Service for the purpose of the said Act for a period of six months from the 15th December, 2006.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a Public Utility Service for the purposes of the said Act, for a period of six months from the 15th June, 2007.

[File No. S-11017/2/2003-IR (PL)]
GURJOT KAUR, Jt. Secy.

नई दिल्ली, 12 जून, 2007

का.आ. 1843.—केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. 4890 दिनांक 28-11-2006 द्वारा लोह अयस्क खनन उद्योग जोकि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 16 में शामिल है, को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 18-12-2006 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 18-6-2007 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फा. संख्या एस-11017/13/1997-आई आर (पी एल)]
गुरजोत कौर, संयुक्त सचिव

New Delhi, the 12th June, 2007

S.O. 1843.—Whereas the Central Government having been satisfied that the public interest so requires that in

pursuance of the provisions of sub-clause (vi) of the clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 4890 dated 28-11-2006 the service in the Iron Ore Mining Industry which is covered by item 16 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a Public Utility Service for the purpose of the said Act for a period of six months from the 18th December, 2006.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a Public Utility Service for the purposes of the said Act, for a period of six months from the 18th June, 2007.

[File No. S-11017/13/1997-IR (PL)]
GURJOT KAUR, Jt. Secy.

नई दिल्ली, 13 जून, 2007

का.आ. 1844.—जबकि मैसर्स योकोगावा इंडिया लिमिटेड, बेंगलूर (कर्नाटक क्षेत्र में कोड संख्या के एन/13151 के तहत) (इसके पश्चात् प्रतिष्ठान के रूप में उल्लिखित) ने कर्मचारी भविष्य निधि एवं प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (इसके पश्चात् अधिनियम के रूप में उल्लिखित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन किया है।

2. और जबकि केन्द्र सरकार के विचार में अंशदान की दरों के संबंध में उक्त प्रतिष्ठान के भविष्य निधि नियम, उक्त अधिनियम की धारा 6 में विनिर्दिष्ट की तुलना में कर्मचारियों के लिए कम अनुकूल नहीं है और कर्मचारी, उक्त अधिनियम के अंतर्गत अथवा इसी प्रकार के किसी अन्य प्रतिष्ठान में कर्मचारियों के संबंध में कर्मचारी भविष्य निधि स्कीम, 1952 (इसके पश्चात् स्कीम के रूप में उल्लिखित) के अंतर्गत प्रदान किए जा रहे अन्य भविष्य निधि लाभों का भी फायदा उठा रहे हैं।

3. अतः, अब, केन्द्र सरकार उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, और समय-समय पर इस संबंध में उल्लिखित शर्तों के अध्याधीन केन्द्र सरकार एतद्वारा उक्त प्रतिष्ठान को 1-3-1989 से अगली अधिसूचना तक उक्त स्कीम के सभी उपबंधों के प्रचालन से छूट प्रदान करती है।

[संख्या एस-35015/8/2007-एस.एस.-II]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 13th June, 2007

S.O. 1844.—Whereas M/s. Yokogawa India Ltd., Bangalore (under Code No. KN/13151 in Karnataka region) (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of

Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 1-3-1989, until further notification.

[No. S-35015/8/2007-SS-II]
S. D. XAVIER, Under Secy.

नई दिल्ली, 13 जून, 2007

का.आ. 1845.—जबकि मैसर्स कृषक भारती कोऑपरेटिव लिमिटेड, दिल्ली (दिल्ली क्षेत्र में कोड संख्या डी एल/5571 के तहत) (इसके पश्चात् प्रतिष्ठान के रूप में उल्लिखित) ने कर्मचारी भविष्य निधि एवं प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (इसके पश्चात् अधिनियम के रूप में उल्लिखित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन किया है।

2. और जबकि केन्द्र सरकार के विचार में अंशदान की दरों के संबंध में उक्त प्रतिष्ठान के भविष्य निधि नियम, उक्त अधिनियम की धारा 6 में विनिर्दिष्ट की तुलना में कर्मचारियों के लिए कम अनुकूल नहीं है और कर्मचारी, उक्त अधिनियम के अंतर्गत अथवा इसी प्रकार के किसी अन्य प्रतिष्ठान में कर्मचारियों के संबंध में कर्मचारी भविष्य निधि स्कीम, 1952 (इसके पश्चात् स्कीम के रूप में उल्लिखित) के अंतर्गत प्रदान किए जा रहे अन्य भविष्य निधि लाभों का भी फायदा उठा रहे हैं।

3. अतः, अब, केन्द्र सरकार उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, और समय-समय पर इस संबंध में उल्लिखित शर्तों के अध्याधीन केन्द्र सरकार एतद्वारा उक्त प्रतिष्ठान को 1-3-1983 से अगली अधिसूचना तक उक्त स्कीम के सभी उपबंधों के प्रचालन से छूट प्रदान करती है।

[संख्या एस-35015/14/2007-एस.एस.-II]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 13th June, 2007

S.O. 1845.—Whereas M/s. Krishak Bharati Cooperative Limited, Delhi (under Code No. DL/5571 in

Delhi (S) region] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees'

Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the said Act and subject to the conditions specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 1-3-1983, until further notification.

[No. S-35015/14/2007-SS-II]
S. D. XAVIER, Under Secy.